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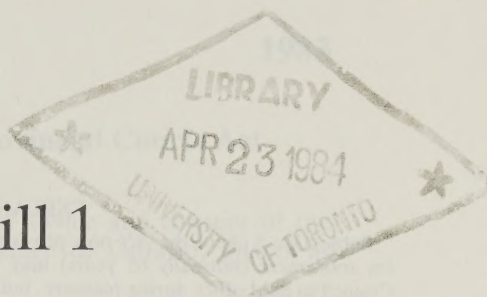
Government
Republic

Bill 1

Government Bill

3RD SESSION, 32ND LEGISLATURE, ONTARIO

32 ELIZABETH II, 1983



Bill 1

An Act to amend the Provincial Courts Act

The Hon. R. McMurtry

Attorney General

1st Reading April 18th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

Subsection 5 (4) of the Act now provides that a provincial judge who has attained an age for retirement (normally 65 years) may be re-appointed by the Lieutenant Governor in Council to hold office during pleasure, but shall not hold office after attaining the age of seventy-five years.

The re-enacted provisions permit a judge, subject to the annual approval of the Chief Judge, to continue in office until the age of seventy years and thereafter, subject to the annual approval of the Judicial Council, to continue in office until the age of seventy-five years. Similarly, an associate chief judge or senior judge may continue in that office beyond the normal age of retirement, but shall not in any event continue in that office beyond the age of seventy-five years.

A Chief Judge or the senior judge of the Provincial Court (Civil Division) may, subject to the annual approval of the Judicial Council, continue in that office beyond the normal age of retirement until the judge has attained the age of seventy-five years.

Bill 1**1983****An Act to amend the Provincial Courts Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 5 (4) of the *Provincial Courts Act*, being chapter 398 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 5 (4),
re-enacted

(4) A judge who has attained the age for retirement under subsection (1) may, subject to the annual approval of the Chief Judge, continue in office as a full-time or part-time judge until he or she attains the age of seventy years, and a judge who has attained the age of seventy years may, subject to the annual approval of the Judicial Council, continue in office as a full-time or part-time judge until he or she has attained the age of seventy-five years. Continuation
of judges
in office

(4a) An associate chief judge or senior judge who is in office upon attaining the age for retirement under subsection (1) may, subject to the annual approval of the Chief Judge, continue in that office until he or she has attained the age of seventy years, and an associate chief judge or senior judge who has attained the age of seventy years may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years. Continuation
of associate
chief judge
and senior
judges in
office

(4b) A Chief Judge or the senior judge of the Provincial Court (Civil Division) who is in office upon attaining the age for retirement under subsection (1) or (2) may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years. Continuation
of Chief
Judge in
office

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Provincial Courts Amendment Act, 1983*. Short title

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Bill 1

3RD SESSION, 32ND LEGISLATURE, ONTARIO

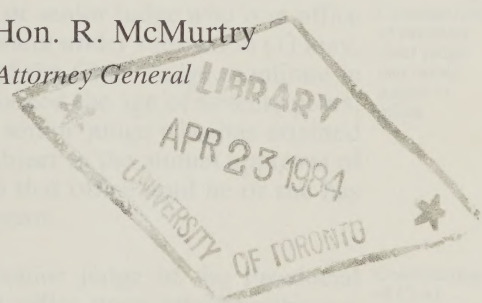
32 ELIZABETH II, 1983

Bill 1

(Chapter 18)
Statutes of Ontario, 1983)

An Act to amend the Provincial Courts Act

The Hon. R. McMurtry
Attorney General



<i>1st Reading</i>	April 18th, 1983
<i>2nd Reading</i>	May 17th, 1983
<i>3rd Reading</i>	May 24th, 1983
<i>Royal Assent</i>	May 26th, 1983

Bill 1

1983

An Act to amend the Provincial Courts Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 5 (4) of the *Provincial Courts Act*, being chapter 398 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

s. 5 (4),
re-enacted

(4) A judge who has attained the age for retirement under subsection (1) may, subject to the annual approval of the Chief Judge, continue in office as a full-time or part-time judge until he or she attains the age of seventy years, and a judge who has attained the age of seventy years may, subject to the annual approval of the Judicial Council, continue in office as a full-time or part-time judge until he or she has attained the age of seventy-five years.

Continuation
of judges
in office

(4a) An associate chief judge or senior judge who is in office upon attaining the age for retirement under subsection (1) may, subject to the annual approval of the Chief Judge, continue in that office until he or she has attained the age of seventy years, and an associate chief judge or senior judge who has attained the age of seventy years may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years.

Continuation
of associate
chief judge
and senior
judges in
office

(4b) A Chief Judge or the senior judge of the Provincial Court (Civil Division) who is in office upon attaining the age for retirement under subsection (1) or (2) may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years.

Continuation
of Chief
Judge in
office

2. This Act comes into force on the day it receives Royal Assent.

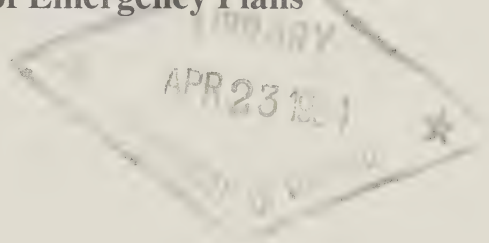
Commence-
ment

3. The short title of this Act is the *Provincial Courts Amendment Act, 1983*.

Short title

Bill 2

An Act to provide for the Formulation and Implementation of Emergency Plans



The Hon. G. W. Taylor
Solicitor General

1st Reading April 19th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill provides for the formulation and implementation of emergency plans.

Bill 2

1983

An Act to provide for the Formulation and Implementation of Emergency Plans

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "council of a municipality" includes the board of an improvement district;
- (b) "Crown employee" means a Crown employee within the meaning of the *Public Service Act*; R.S.O. 1980,
c. 418
- (c) "emergency" means a situation caused by the forces of nature, an accident, an intentional act or otherwise that constitutes a danger of major proportions to life or property;
- (d) "emergency area" means the area in which an emergency exists;
- (e) "emergency plan" means a plan formulated under section 3, 6 or 8;
- (f) "employee of a municipality" means an employee as defined in paragraph 46 of section 208 of the *Municipal Act*; R.S.O. 1980,
c. 302
- (g) "head of council" includes a chairman of the board of an improvement district;
- (h) "local board" means a local board as defined in the *Municipal Affairs Act*; R.S.O. 1980,
c. 303
- (i) "local services board" means a Local Services Board established under the *Local Services Boards Act*; R.S.O. 1980,
c. 252

- (j) “member of council” includes a trustee of the board of an improvement district;
- (k) “municipality” means a city, town, village, township and improvement district and includes a district, regional and metropolitan municipality and the County of Oxford.

Administra-
tion of Act

2. The Solicitor General is responsible for the administration of this Act.

Municipal
emergency
plan

3.—(1) The council of a municipality may pass a by-law formulating or providing for the formulation of an emergency plan governing the provision of necessary services during an emergency and the procedures under and the manner in which employees of the municipality and other persons will respond to the emergency.

Moneys

(2) A by-law passed under subsection (1) may provide for moneys associated with the formulation and implementation of the emergency plan.

Co-ordina-
tion by
county

(3) The council of a county may with the consent of the councils of the municipalities situated within the county co-ordinate and assist in the formulation of their emergency plans under subsection (1).

Emergency
plan may be
required

(4) The Lieutenant Governor in Council may designate municipalities that shall have an emergency plan respecting the type of emergency specified in the designation and, where so designated, a municipality shall formulate or provide for the formulation of the emergency plan.

Declaration
of emergency

4.—(1) The head of council of a municipality may declare that an emergency exists in the municipality or in any part thereof and may take such action and make such orders as he considers necessary and are not contrary to law to implement the emergency plan of the municipality and to protect property and the health, safety and welfare of the inhabitants of the emergency area.

Declaration
as to
termination
of emergency

(2) The head of council or the council of a municipality may at any time declare that an emergency has terminated.

Solicitor
General to be
notified

(3) The head of council shall ensure that the Solicitor General is notified forthwith of a declaration made under subsection (1) or (2).

Premier may
declare
emergency
terminated

(4) The Premier of Ontario may at any time declare that an emergency has terminated.

5. Where the council of a district, regional or metropolitan municipality or the County of Oxford has an emergency plan, an emergency plan of an area municipality in the district, regional or metropolitan municipality or the County of Oxford, as the case may be, shall conform to the emergency plan of the district, regional or metropolitan municipality or the County of Oxford, as the case may be, and has no effect to the extent of any inconsistency.

Where
emergency
plan to have
no effect

6.—(1) It is the responsibility of,

Emergency
plans of
provincial
government
bodies

- (a) each minister of the Crown presiding over a ministry of the Government of Ontario; and
- (b) each agency, board, commission or other branch of government designated by the Lieutenant Governor in Council,

to formulate an emergency plan for the ministry or branch of government, as the case may be, in respect of the type of emergency assigned to it by the Lieutenant Governor in Council, governing the provision of necessary services during an emergency and the procedures under and the manner in which Crown employees and other persons will respond to the emergency.

(2) The Lieutenant Governor in Council shall appoint an Emergency Planning Co-ordinator who, under the direction of the Solicitor General, shall be responsible for monitoring, co-ordinating and assisting in the formulation and implementation of emergency plans under this section and section 8 and ensuring that such plans are co-ordinated in so far as possible with emergency plans of municipalities and the Government of Canada and its agencies.

Emergency
Planning
Co-ordinator

7.—(1) The Premier of Ontario may declare that an emergency exists throughout Ontario or in any part thereof and may take such action and make such orders as he considers necessary and are not contrary to law to implement the emergency plans formulated under section 6 or 8 and to protect property and the health, safety and welfare of the inhabitants of the emergency area.

Declaration
of emergency

(2) For the purposes of subsection (1), the Premier of Ontario may exercise any power or perform any duty conferred upon a minister of the Crown or a Crown employee by or under an Act of the Legislature.

Power of
Premier

(3) Where a declaration is made under subsection (1) and the emergency area or any part thereof is within the jurisdiction

Emergency
powers

of a municipality, the Premier of Ontario may, where he considers it necessary, direct and control the administration, facilities and equipment of the municipality to ensure the provision of necessary services in the emergency area, and, without restricting the generality of the foregoing, the exercise by the municipality of its powers and duties in the emergency area, whether under an emergency plan or otherwise, is subject to the direction and control of the Premier.

Assistance

(4) The Premier of Ontario may require any municipality to provide such assistance as he considers necessary to an emergency area or any part thereof that is not within the jurisdiction of the municipality, and may direct and control the provision of such assistance, and the Lieutenant Governor in Council may authorize the payment of the cost thereof out of the Consolidated Revenue Fund.

Premier may
designate
minister

(5) Where the Premier of Ontario makes a declaration under subsection (1), he may designate a minister of the Crown to exercise the powers conferred on the Premier by subsections (1), (2), (3) and (4).

Counties,
local boards
and local
services
boards
included

Lieutenant
Governor in
Council to
formulate
plan

(6) For the purposes of this section, "municipality" includes a local board of a municipality, a county and a local services board.

8. The Lieutenant Governor in Council shall formulate an emergency plan respecting emergencies arising in connection with nuclear facilities, and any provisions of an emergency plan of a municipality respecting such an emergency shall conform to the plan formulated by the Lieutenant Governor in Council and are subject to the approval of the Solicitor General and the Solicitor General may make such alterations as he considers necessary for the purpose of co-ordinating the plan with the plan formulated by the Lieutenant Governor in Council.

What plan
may provide

9. An emergency plan may,

- (a) in the case of a municipality, authorize employees of the municipality or, in the case of a plan formulated under section 6 or 8, authorize Crown employees to take action under the emergency plan where an emergency exists but has not yet been declared to exist;
- (b) specify procedures to be taken for the safety or evacuation of persons in an emergency area;

- (c) in the case of a municipality, designate one or more members of council who may exercise the powers and perform the duties of the head of council under this Act or the emergency plan during the absence of the head of council or his inability to act;
- (d) establish committees and designate employees to be responsible for reviewing the emergency plan, training employees in their functions and implementing the emergency plan during an emergency;
- (e) provide for obtaining and distributing materials, equipment and supplies during an emergency; and
- (f) provide for such other matters as are considered necessary or advisable for the implementation of the emergency plan during an emergency.

10. An emergency plan formulated under section 3, 6 or 8 shall be made available to the public for inspection and copying during ordinary business hours at an office of the municipality, ministry or branch of government, as the case may be.

Public access
to plans

11.—(1) No action or other proceeding for damages lies or shall be instituted against a member of council, an employee of a municipality, a minister of the Crown or a Crown employee for doing any act or neglecting to do any act in good faith in the implementation or intended implementation of an emergency plan or in connection with an emergency.

Protection
from
personal
liability

(2) Notwithstanding subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability for the acts or omissions of a minister of the Crown or a Crown employee referred to in subsection (1) and the Crown is liable under that Act as if subsection (1) had not been enacted.

Crown not
relieved of
liability
R.S.O. 1980,
c. 393

(3) Subsection (1) does not relieve a municipality of liability for the acts or omissions of a member of council or an employee of the municipality referred to in subsection (1), and the municipality is liable as if subsection (1) had not been enacted and, in the case of a member of council, as if the member were an employee of the municipality.

Municipality
not relieved
of liability

(4) For the purposes of this section, “municipality” includes a local board of a municipality and a county and “member of council” includes a member of a local board and of the council of a county.

Counties and
local boards
included

Right of
action

12. Where money is expended or cost is incurred by a municipality or the Crown in the implementation of an emergency plan or in connection with an emergency, the municipality or the Crown, as the case may be, has a right of action against any person who caused the emergency for the recovery of such money or cost, and for the purposes of this section, “municipality” includes a local board of a municipality, a county and a local services board.

Agreements

13.—(1) The Solicitor General, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of Canada in respect of the payment by Canada to Ontario of any part of the cost to Ontario and to municipalities of the formulation and implementation of emergency plans.

Idem

(2) The Solicitor General, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of Canada and with the Crown in right of any other province for the provision of any personnel, service, equipment or material during an emergency.

Idem

(3) The council of a municipality may make an agreement with the council of any other municipality or with any person for the provision of any personnel, service, equipment or material during an emergency, and for the purposes of this subsection, “municipality” includes a county.

By-law
deemed to
continue in
force

14. A by-law formulating or providing for the formulation of an emergency plan passed by the council of a municipality before this Act comes into force shall, to the extent that it conforms to this Act, be deemed to continue in force.

Commence-
ment

15. This Act comes into force on the day it receives Royal Assent.

Short title

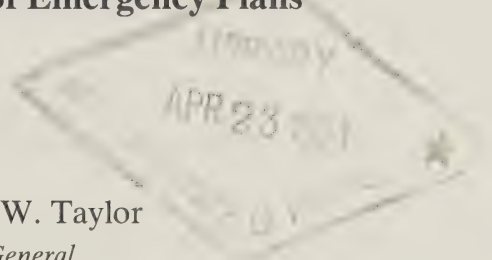
16. The short title of this Act is the *Emergency Plans Act, 1983*.

Bill 2

(Chapter 30
Statutes of Ontario, 1983)

An Act to provide for the Formulation and Implementation of Emergency Plans

The Hon. G. W. Taylor
Solicitor General



<i>1st Reading</i>	April 19th, 1983
<i>2nd Reading</i>	June 7th, 1983
<i>3rd Reading</i>	June 9th, 1983
<i>Royal Assent</i>	June 9th, 1983

Bill 2

1983

An Act to provide for the Formulation and Implementation of Emergency Plans

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “council of a municipality” includes the board of an improvement district;
- (b) “Crown employee” means a Crown employee within the meaning of the *Public Service Act*; R.S.O. 1980,
c. 418
- (c) “emergency” means a situation caused by the forces of nature, an accident, an intentional act or otherwise that constitutes a danger of major proportions to life or property;
- (d) “emergency area” means the area in which an emergency exists;
- (e) “emergency plan” means a plan formulated under section 3, 6 or 8;
- (f) “employee of a municipality” means an employee as defined in paragraph 46 of section 208 of the *Municipal Act*; R.S.O. 1980,
c. 302
- (g) “head of council” includes a chairman of the board of an improvement district;
- (h) “local board” means a local board as defined in the *Municipal Affairs Act*; R.S.O. 1980,
c. 303
- (i) “local services board” means a Local Services Board established under the *Local Services Boards Act*; R.S.O. 1980,
c. 252

(j) "member of council" includes a trustee of the board of an improvement district;

(k) "municipality" means a city, town, village, township and improvement district and includes a district, regional and metropolitan municipality and the County of Oxford.

Administration of Act

2. The Solicitor General is responsible for the administration of this Act.

Municipal emergency plan

3.—(1) The council of a municipality may pass a by-law formulating or providing for the formulation of an emergency plan governing the provision of necessary services during an emergency and the procedures under and the manner in which employees of the municipality and other persons will respond to the emergency.

Moneys

(2) A by-law passed under subsection (1) may provide for moneys associated with the formulation and implementation of the emergency plan.

Co-ordination by county

(3) The council of a county may with the consent of the councils of the municipalities situated within the county co-ordinate and assist in the formulation of their emergency plans under subsection (1).

Emergency plan may be required

(4) The Lieutenant Governor in Council may designate municipalities that shall have an emergency plan respecting the type of emergency specified in the designation and, where so designated, a municipality shall formulate or provide for the formulation of the emergency plan.

Declaration of emergency

4.—(1) The head of council of a municipality may declare that an emergency exists in the municipality or in any part thereof and may take such action and make such orders as he considers necessary and are not contrary to law to implement the emergency plan of the municipality and to protect property and the health, safety and welfare of the inhabitants of the emergency area.

Declaration as to termination of emergency

(2) The head of council or the council of a municipality may at any time declare that an emergency has terminated.

Solicitor General to be notified

(3) The head of council shall ensure that the Solicitor General is notified forthwith of a declaration made under subsection (1) or (2).

Premier may declare emergency terminated

(4) The Premier of Ontario may at any time declare that an emergency has terminated.

5. Where the council of a district, regional or metropolitan municipality or the County of Oxford has an emergency plan, an emergency plan of an area municipality in the district, regional or metropolitan municipality or the County of Oxford, as the case may be, shall conform to the emergency plan of the district, regional or metropolitan municipality or the County of Oxford, as the case may be, and has no effect to the extent of any inconsistency.

Where
emergency
plan to have
no effect

6.—(1) It is the responsibility of,

- (a) each minister of the Crown presiding over a ministry of the Government of Ontario; and
- (b) each agency, board, commission or other branch of government designated by the Lieutenant Governor in Council,

Emergency
plans of
provincial
government
bodies

to formulate an emergency plan for the ministry or branch of government, as the case may be, in respect of the type of emergency assigned to it by the Lieutenant Governor in Council, governing the provision of necessary services during an emergency and the procedures under and the manner in which Crown employees and other persons will respond to the emergency.

(2) The Lieutenant Governor in Council shall appoint an Emergency Planning Co-ordinator who, under the direction of the Solicitor General, shall be responsible for monitoring, co-ordinating and assisting in the formulation and implementation of emergency plans under this section and section 8 and ensuring that such plans are co-ordinated in so far as possible with emergency plans of municipalities and the Government of Canada and its agencies.

Emergency
Planning
Co-ordinator

7.—(1) The Premier of Ontario may declare that an emergency exists throughout Ontario or in any part thereof and may take such action and make such orders as he considers necessary and are not contrary to law to implement the emergency plans formulated under section 6 or 8 and to protect property and the health, safety and welfare of the inhabitants of the emergency area.

Declaration
of emergency

(2) For the purposes of subsection (1), the Premier of Ontario may exercise any power or perform any duty conferred upon a minister of the Crown or a Crown employee by or under an Act of the Legislature.

Power of
Premier

(3) Where a declaration is made under subsection (1) and the emergency area or any part thereof is within the jurisdiction

Emergency
powers

of a municipality, the Premier of Ontario may, where he considers it necessary, direct and control the administration, facilities and equipment of the municipality to ensure the provision of necessary services in the emergency area, and, without restricting the generality of the foregoing, the exercise by the municipality of its powers and duties in the emergency area, whether under an emergency plan or otherwise, is subject to the direction and control of the Premier.

Assistance

(4) The Premier of Ontario may require any municipality to provide such assistance as he considers necessary to an emergency area or any part thereof that is not within the jurisdiction of the municipality, and may direct and control the provision of such assistance, and the Lieutenant Governor in Council may authorize the payment of the cost thereof out of the Consolidated Revenue Fund.

Premier may designate minister

(5) Where the Premier of Ontario makes a declaration under subsection (1), he may designate a minister of the Crown to exercise the powers conferred on the Premier by subsections (1), (2), (3) and (4).

Counties, local boards and local services boards included
Lieutenant Governor in Council to formulate plan

(6) For the purposes of this section, "municipality" includes a local board of a municipality, a county and a local services board.

8. The Lieutenant Governor in Council shall formulate an emergency plan respecting emergencies arising in connection with nuclear facilities, and any provisions of an emergency plan of a municipality respecting such an emergency shall conform to the plan formulated by the Lieutenant Governor in Council and are subject to the approval of the Solicitor General and the Solicitor General may make such alterations as he considers necessary for the purpose of co-ordinating the plan with the plan formulated by the Lieutenant Governor in Council.

What plan may provide

9. An emergency plan may,

- (a) in the case of a municipality, authorize employees of the municipality or, in the case of a plan formulated under section 6 or 8, authorize Crown employees to take action under the emergency plan where an emergency exists but has not yet been declared to exist;
- (b) specify procedures to be taken for the safety or evacuation of persons in an emergency area;

- (c) in the case of a municipality, designate one or more members of council who may exercise the powers and perform the duties of the head of council under this Act or the emergency plan during the absence of the head of council or his inability to act;
- (d) establish committees and designate employees to be responsible for reviewing the emergency plan, training employees in their functions and implementing the emergency plan during an emergency;
- (e) provide for obtaining and distributing materials, equipment and supplies during an emergency; and
- (f) provide for such other matters as are considered necessary or advisable for the implementation of the emergency plan during an emergency.

10. An emergency plan formulated under section 3, 6 or 8 shall be made available to the public for inspection and copying during ordinary business hours at an office of the municipality, ministry or branch of government, as the case may be.

Public access to plans

11.—(1) No action or other proceeding for damages lies or shall be instituted against a member of council, an employee of a municipality, a minister of the Crown or a Crown employee for doing any act or neglecting to do any act in good faith in the implementation or intended implementation of an emergency plan or in connection with an emergency.

Protection from personal liability

(2) Notwithstanding subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability for the acts or omissions of a minister of the Crown or a Crown employee referred to in subsection (1) and the Crown is liable under that Act as if subsection (1) had not been enacted.

Crown not relieved of liability
R.S.O. 1980, c. 393

(3) Subsection (1) does not relieve a municipality of liability for the acts or omissions of a member of council or an employee of the municipality referred to in subsection (1), and the municipality is liable as if subsection (1) had not been enacted and, in the case of a member of council, as if the member were an employee of the municipality.

Municipality not relieved of liability

(4) For the purposes of this section, “municipality” includes a local board of a municipality and a county and “member of council” includes a member of a local board and of the council of a county.

Counties and local boards included

Right of
action

12. Where money is expended or cost is incurred by a municipality or the Crown in the implementation of an emergency plan or in connection with an emergency, the municipality or the Crown, as the case may be, has a right of action against any person who caused the emergency for the recovery of such money or cost, and for the purposes of this section, "municipality" includes a local board of a municipality, a county and a local services board.

Agreements

13.—(1) The Solicitor General, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of Canada in respect of the payment by Canada to Ontario of any part of the cost to Ontario and to municipalities of the formulation and implementation of emergency plans.

Idem

(2) The Solicitor General, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of Canada and with the Crown in right of any other province for the provision of any personnel, service, equipment or material during an emergency.

Idem

(3) The council of a municipality may make an agreement with the council of any other municipality or with any person for the provision of any personnel, service, equipment or material during an emergency, and for the purposes of this subsection, "municipality" includes a county.

By-law
deemed to
continue in
force

14. A by-law formulating or providing for the formulation of an emergency plan passed by the council of a municipality before this Act comes into force shall, to the extent that it conforms to this Act, be deemed to continue in force.

Commence-
ment

15. This Act comes into force on the day it receives Royal Assent.

Short title

16. The short title of this Act is the *Emergency Plans Act, 1983*.

Bill 3

An Act to amend the Motor Vehicle Dealers Act

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations

1st Reading April 19th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The new provision authorizes the Lieutenant Governor in Council to make regulations establishing a compensation fund.

Bill 3**1983****An Act to amend the Motor Vehicle Dealers Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Motor Vehicle Dealers Act*, being chapter 299 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause: s. 1,
amended

- (ca) “Fund” means the Motor Vehicle Dealers Compensation Fund established under clause 24 (o).

2. Section 24 of the said Act is amended by adding thereto the following clauses: s. 24,
amended

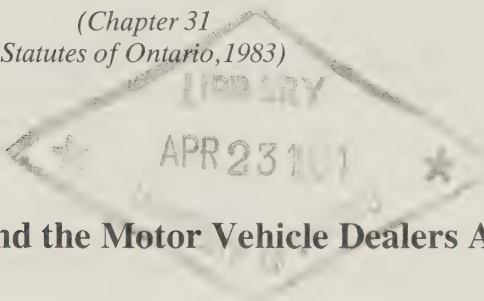
- (o) providing for the establishment, maintenance and administration of the Motor Vehicle Dealers Compensation Fund including prescribing provisions relating to investing and paying out of money from the Fund;
- (p) providing for the payment of levies into the Fund by participants and prescribing the amounts thereof;
- (q) providing for payment out of the Fund of claims and procedures to be followed in respect thereto;
- (r) requiring participation in the Fund by motor vehicle dealers.

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Motor Vehicle Dealers Amendment Act, 1983*. Short title

Bill 3

(Chapter 31
Statutes of Ontario, 1983)



An Act to amend the Motor Vehicle Dealers Act

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations

<i>1st Reading</i>	April 19th, 1983
<i>2nd Reading</i>	May 10th, 1983
<i>3rd Reading</i>	June 9th, 1983
<i>Royal Assent</i>	June 9th, 1983

Bill 3**1983****An Act to amend the Motor Vehicle Dealers Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Motor Vehicle Dealers Act*, being chapter 299 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause: s. 1,
amended

(ca) "Fund" means the Motor Vehicle Dealers Compensation Fund established under clause 24 (o).

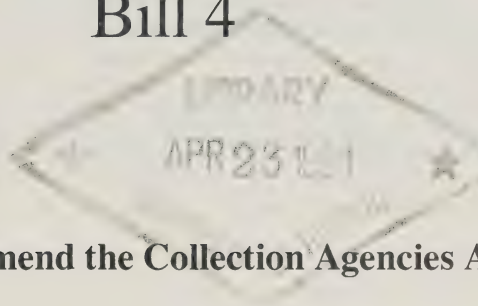
2. Section 24 of the said Act is amended by adding thereto the following clauses: s. 24,
amended

- (o) providing for the establishment, maintenance and administration of the Motor Vehicle Dealers Compensation Fund including prescribing provisions relating to investing and paying out of money from the Fund;
- (p) providing for the payment of levies into the Fund by participants and prescribing the amounts thereof;
- (q) providing for payment out of the Fund of claims and procedures to be followed in respect thereto;
- (r) requiring participation in the Fund by motor vehicle dealers.

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Motor Vehicle Dealers Amendment Act, 1983*. Short title

Bill 4



An Act to amend the Collection Agencies Act

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations

1st Reading April 19th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Act currently sets out, in section 22, certain prohibited practices. Clause 30 (1) authorizes the prohibition by regulation of certain methods of collecting debts.

The distinction between a practice and a method is not clear in all cases. Rather than have practices prohibited by the Act and methods prohibited by the regulations, the amendment would prohibit in the Act certain practices and methods. The practices to be prohibited are those currently set out in section 22 together with any that may be prescribed by regulation. The methods to be prohibited will be those prescribed by the regulations.

Bill 4**1983****An Act to amend the Collection Agencies Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 22 of the *Collection Agencies Act*, being chapter 73 of the Revised Statutes of Ontario, 1980, is amended by striking out “or” at the end of clause (c), by adding “or” at the end of clause (d) and by adding thereto the following clause:

s. 22,
amended

- (e) engage in any prohibited practice or employ any prohibited method in the collection of debts.

2. Clause 30 (1) of the said Act is repealed and the following substituted therefor:

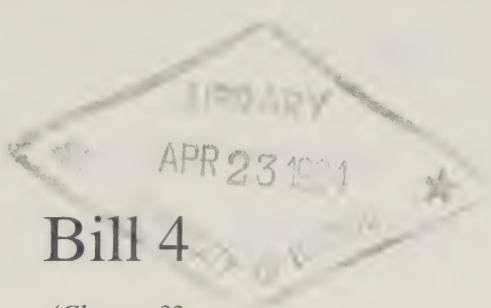
s. 30 (1),
re-enacted

- (1) prescribing prohibited practices and methods for the purpose of section 22.

3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

4. The short title of this Act is the *Collection Agencies Amendment Act, 1983*.



Bill 4

*(Chapter 32
Statutes of Ontario, 1983)*

An Act to amend the Collection Agencies Act

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	April 19th, 1983
<i>2nd Reading</i>	June 7th, 1983
<i>3rd Reading</i>	June 9th, 1983
<i>Royal Assent</i>	June 9th, 1983

Bill 4**1983****An Act to amend the Collection Agencies Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 22 of the *Collection Agencies Act*, being chapter 73 of the Revised Statutes of Ontario, 1980, is amended by striking out “or” at the end of clause (c), by adding “or” at the end of clause (d) and by adding thereto the following clause:

s. 22,
amended

- (e) engage in any prohibited practice or employ any prohibited method in the collection of debts.

2. Clause 30 (l) of the said Act is repealed and the following substituted therefor:

s. 30 (l),
re-enacted

- (l) prescribing prohibited practices and methods for the purpose of section 22.

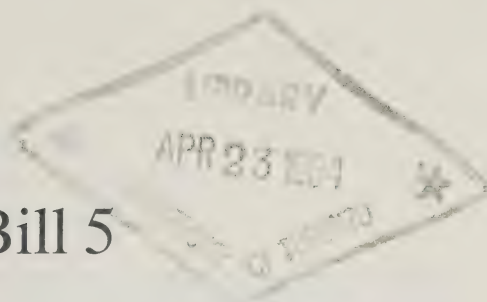
3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

4. The short title of this Act is the *Collection Agencies Amendment Act, 1983*.

Short title

Bill 5



**An Act to amend the
Boilers and Pressure Vessels Act**

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations

1st Reading April 19th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. Section 32 of the Act now provides that where a boiler, etc., is unsafe, no major repairs shall be made until an inspector has approved them and that the boiler, etc., is not to be put into operation again until a new inspection certificate is issued by the chief inspector.

The new provisions provide that where the boiler, etc., is insured, the insurer may perform the duties of the inspector and may issue the certificate.

SECTION 2. Section 36 of the Act deals with welding operators and their employment. The new provision clarifies the meaning of "employer".

SECTION 3. The addition to the authority to make regulations is complementary to section 1 of the Bill.

Bill 5

1983

An Act to amend the Boilers and Pressure Vessels Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 32 of the *Boilers and Pressure Vessels Act*, being chapter 46 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

s. 32,
re-enacted

32.—(1) Subject to subsections (2) and (3), where a boiler, pressure vessel or plant is found to be in an unsafe condition, no person shall make any major repairs thereto until he has notified an inspector of the nature and extent of such repairs and an inspector has concurred therewith, and the boiler, pressure vessel or plant shall not be put into operation or use until a further inspection by an inspector has been made and the chief inspector has issued a new certificate of inspection therefor.

Repairs to
boilers, etc.,
found unsafe

(2) Where a boiler, pressure vessel or plant referred to in subsection (1) is insured, the concurrence and inspection required under subsection (1) may be made by or through the insurer and the insurer may issue a new certificate of inspection therefor.

Idem

(3) The chief inspector may exempt in writing the owner of a plant that is normally operated twenty-four hours a day for seven days a week from the requirements of subsection (1) where he is satisfied that the repairs will be carried out in a safe and proper manner and subject to such terms and conditions as are prescribed in the regulations or required by the chief inspector.

Exemption
by chief
inspector

2. Section 36 of the said Act is amended by adding thereto the following subsection:

s. 36,
amended

(12) In this section, “employer” includes a trade association of persons or companies whose business includes welding.

Interpre-
tation

s. 42,
amended

3. Section 42 of the said Act is amended by adding thereto the following clause:

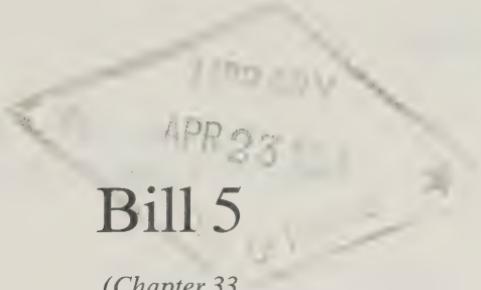
- (t) prescribing terms to which exemptions made under section 32 of the Act are subject.

Commence-
ment

4. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

5. The short title of this Act is the *Boilers and Pressure Vessels Amendment Act, 1983*.



Bill 5

(Chapter 33
Statutes of Ontario, 1983)

**An Act to amend the
Boilers and Pressure Vessels Act**

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	April 19th, 1983
<i>2nd Reading</i>	June 7th, 1983
<i>3rd Reading</i>	June 9th, 1983
<i>Royal Assent</i>	June 9th, 1983

Bill 5

1983

An Act to amend the Boilers and Pressure Vessels Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 32 of the *Boilers and Pressure Vessels Act*, being chapter 46 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 32,
re-enacted

32.—(1) Subject to subsections (2) and (3), where a boiler, pressure vessel or plant is found to be in an unsafe condition, no person shall make any major repairs thereto until he has notified an inspector of the nature and extent of such repairs and an inspector has concurred therewith, and the boiler, pressure vessel or plant shall not be put into operation or use until a further inspection by an inspector has been made and the chief inspector has issued a new certificate of inspection therefor. Repairs to
boilers, etc.,
found unsafe

(2) Where a boiler, pressure vessel or plant referred to in subsection (1) is insured, the concurrence and inspection required under subsection (1) may be made by or through the insurer and the insurer may issue a new certificate of inspection therefor. Idem

(3) The chief inspector may exempt in writing the owner of a plant that is normally operated twenty-four hours a day for seven days a week from the requirements of subsection (1) where he is satisfied that the repairs will be carried out in a safe and proper manner and subject to such terms and conditions as are prescribed in the regulations or required by the chief inspector. Exemption
by chief
inspector

2. Section 36 of the said Act is amended by adding thereto the following subsection: s. 36,
amended

(12) In this section, “employer” includes a trade association of persons or companies whose business includes welding. Interpre-
tation

s. 42,
amended

3. Section 42 of the said Act is amended by adding thereto the following clause:

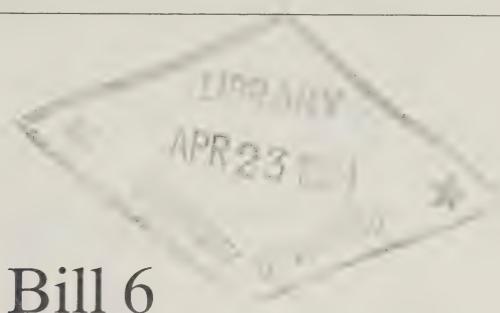
- (t) prescribing terms to which exemptions made under section 32 of the Act are subject.

Commence-
ment

4. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

5. The short title of this Act is the *Boilers and Pressure Vessels Amendment Act, 1983*.



Bill 6

**An Act to provide for Freedom of Information and
Protection of Individual Privacy**

Mr. Breithaupt

1st Reading April 19th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill provides a broad and comprehensive scheme for public access to, and protection of individual privacy with respect to, information held by government.

Bill 6**1983****An Act to provide for Freedom of Information and
Protection of Individual Privacy**

Whereas the people of Ontario believe in the dignity, worth, and equality of opportunity of every person and believe that equality is the foundation upon which free, democratic government is based; and whereas the people of Ontario are committed to the highest principles of free, democratic government; and whereas it is recognized that reasonable openness in government and the protection of the public from unwarranted secrecy and unwarranted invasion of personal privacy promote the principles of free, democratic government;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The purposes of this Act are,

Purposes

- (a) to provide a right of access to information under the control of an institution in accordance with the principles that,
 - (i) government information should be available to the public,
 - (ii) necessary exceptions to the right of access should be limited and specific, and
 - (iii) decisions on the disclosure of government information should be reviewed independently of government; and
- (b) to protect the privacy of individuals with respect to personal information about themselves held by an institution and to provide individuals with a right of access to such information.

2. In this Act,Interpre-
tation

- (a) "data bank" means a collection of personal information which is organized and capable of being retrieved;
- (b) "Data Protection Authority" means the body established under subsection 39 (1);
- (c) "data subject" means a person about whom information is gathered and stored;
- (d) "Director of Fair Information Practices" and "Director" mean the Director appointed under subsection 20 (1);
- (e) "Fair Information Practices Tribunal" and "Tribunal" mean the tribunal established under subsection 21 (1);
- (f) "head", in respect of an institution, means a person charged with record keeping responsibilities for the institution who has been designated as such by order of the responsible minister;
- (g) "institution" means a department, agency, division, board, commission, corporation or other body,
 - (i) that is financed exclusively from the Consolidated Revenue Fund,
 - (ii) at least 50 per cent of the shares of which are owned by the Crown in right of Ontario, or
 - (iii) where the Government of Ontario has the power to appoint a majority of the governing body of the institution;
- (h) "personal information" means recorded information about an identifiable individual, including,
 - (i) information relating to the race, national or ethnic origin, colour, religion, age, sex or marital status of the individual,
 - (ii) information relating to the education or the medical, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,

- (iii) any identifying number, symbol or other particular assigned to the individual,
 - (iv) the address, fingerprints or blood type of the individual,
 - (v) the personal opinions or views of the individual except where they relate to another individual,
 - (vi) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to the correspondence that would reveal the contents of the original correspondence,
 - (vii) the views or opinions of another individual about the individual, and
 - (viii) the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;
- (i) "record" means any record of information however recorded, whether in printed form, on film, by electronic means or otherwise, and includes,
- (i) correspondence, a memorandum, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microform, a sound recording, a videotape, a machine readable record, any other documentary material, regardless of physical form or characteristics, and any copy thereof, and
 - (ii) subject to the regulations, any record that does not exist but is capable of being produced from a machine readable record under the control of an institution by means of computer hardware and software or any other information storage equipment and technical expertise normally used by the institution; and
- (j) "responsible minister" means the minister of the Crown who is designated by order of the Lieutenant Governor in Council under section 45.

PART I

FREEDOM OF INFORMATION

Right of
access

3. Every person has a right of access to a record under the control of an institution.

Request

4.—(1) A person seeking access to a record shall make a request therefor in writing to the institution that has control of the record and shall provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record.

Sufficiency of
detail

(2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1).

Notice by
head

5. Where a person requests access to a record, the head of the institution to which the request is made shall, subject to section 7, within thirty days after the request is received,

- (a)** give written notice to the person who made the request as to whether or not access to the record or a part thereof will be given; and
- (b)** if access is to be given, give the person who made the request access to the record or part thereof.

Transfer of
request

6.—(1) Where an institution receives a request for access to a record and the head considers that another institution has a greater interest in the record, the head may, subject to the regulations, transfer the request and, if necessary, the record to the other institution, within fifteen days after the request is received, in which case the head transferring the request shall give written notice of the transfer to the person who made the request.

When
transferred
request
deemed
made

(2) For the purposes of this section, where a request is transferred under subsection (1), the request shall be deemed to have been made to the institution to which it is transferred on the day the institution to which the request was originally made received it.

Greater
interest

(3) For the purpose of subsection (1), an institution has a greater interest in a record than another institution if,

- (a)** the record was originally produced in or for such institution; or

- (b) in the case of a record not originally produced in or for an institution, such institution was the first institution to receive the record or a copy thereof.

7.—(1) A head may extend the time limit set out in section 5 or subsection 6 (1) for a period of time that is reasonable in the circumstances, where, Extension of time

- (a) the request is for a large number of records or necessitates a search through a large number of records and meeting the time limit set out in section 5 or subsection 6 (1) would unreasonably interfere with the operations of the institution; or
- (b) consultations that cannot reasonably be completed within the time limit set out in section 5 or subsection 6 (1) are necessary to comply with the request.

(2) Where a head extends the time limit under subsection (1), the head shall give the person who made the request written notice of the extension setting out, Notice of extension

- (a) the length of the extension;
- (b) the reason for the extension; and
- (c) that the person who made the request may ask the Director to review the extension.

8.—(1) Where a head refuses to give access to a record or a part thereof, the head shall state in the notice given under section 5, Contents of notice of refusal

- (a) where the record does not exist, that it does not exist; or
- (b) where the record exists,
 - (i) the specific provision of this Act under which access is refused,
 - (ii) an explanation of the basis for the conclusion that the provision named in subclause (i) applies to the record,
 - (iii) the name and office of the person responsible for making the decision to refuse access, and
 - (iv) that the person who made the request may ask the Director to review the decision.

Deemed
refusal

(2) Where a head fails to comply with section 5 or 7, the head is, for the purposes of this Act, deemed to have refused to give access to the record.

Reasonable
access fee

9.—(1) The head of an institution to which a request is made under subsection 4 (1) may require the person who made the request to pay a fee covering the institution's costs of searching, reproduction and shipping if it is reasonable in all the circumstances to do so.

Review

(2) A person who is required to pay a fee under subsection (1) may ask the Director to review the head's decision to charge a fee.

Copy of
record

10.—(1) Subject to subsection (2), a person who is given access to a record or a part thereof under this Act shall be given a copy thereof unless it would not be reasonably practicable to reproduce the record or part thereof by reason of its length or nature, in which case the person shall be given an opportunity to examine the record or part thereof in accordance with the regulations.

Access to
original
record

(2) A head has discretion to allow the person who is given access to the record to examine it or a part thereof in accordance with the regulations.

Exemption re
Cabinet
records

11.—(1) A head may refuse to disclose a record whose disclosure would reveal the substance of deliberations of the Executive Council, including,

- (a) an agenda, minute or other record of the deliberations or decisions of the Executive Council or its committees;
- (b) a record containing proposals or recommendations submitted, or prepared for submission, by a minister of the Crown to the Executive Council;
- (c) a record containing background explanations, analyses of problems or policy options submitted or prepared for submission by a minister of the Crown to the Executive Council for its consideration in making decisions, before such decisions are made;
- (d) a record used for or reflecting consultation among ministers of the Crown on matters relating to the making of government decisions or the formulation of government policy;

- (e) a record containing briefings to ministers of the Crown in relation to matters that are before or are proposed to be brought before the Executive Council, or are the subject of consultations among ministers relating to government decisions or the formulation of government policy; and
- (f) draft legislation.

(2) A head may refuse to disclose a record containing advice or recommendations of public servants and consultants retained by an institution, unless it is, Exemption
re advice to
government

- (a) a record which contains mainly factual material;
- (b) a statistical survey;
- (c) a report by a valuator, whether or not the valuator is an officer of the institution;
- (d) an environmental impact statement or similar record prepared by an institution charged with the responsibility of monitoring environmental quality;
- (e) a report of a test carried out on a product for the purpose of government equipment testing or a consumer test report;
- (f) a report or study on the performance or efficiency of an institution, whether the report or study is of a general nature or is in respect of a particular program or policy;
- (g) a feasibility study or other technical study, including a cost estimate, relating to a proposed government policy or project;
- (h) a report containing the results of field research undertaken before the formulation of a policy proposal;
- (i) a final plan or proposal for the reorganization of the function of an institution, or for the establishment of a new program, including a budgetary estimate for the program, whether or not the plan or proposal is subject to approval;
- (j) a report of an inter-departmental committee task force or similar body, or of a committee or task force within an institution, which has been established for

the purpose of preparing a report on a particular topic;

- (k) a report of a committee, council or other body which is attached to an institution and which has been established for the purpose of undertaking inquiries and making reports or recommendations to the institution;
- (l) a final proposal for the preparation of subordinate legislation;
- (m) a document to which clause 16 (1) (a) or (b) applies; or
- (n) a final decision, order or ruling of an officer of the institution made during or at the conclusion of the exercise of discretionary power conferred by or under an enactment or scheme administered by the institution, whether or not the enactment or scheme allows an appeal to be taken against the decision, order or ruling, and any reason explaining the decision, order or ruling, whether or not the reason,
 - (i) is contained in an internal memorandum of the institution or in a letter addressed by an officer or employee of the institution to a named person, or
 - (ii) was given by the officer who made the decision, order or ruling or was incorporated by reference into the decision, order or ruling.

Exemption
re law
enforcement

(3) A head may refuse to disclose a record whose disclosure could reasonably be expected to,

- (a) interfere with a law enforcement proceeding;
- (b) interfere with an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;
- (c) reveal investigative techniques and procedures currently in use or likely to be used;
- (d) disclose the identity of a confidential source of information, or disclose information furnished only by the confidential source;

- (e) endanger the life or physical safety of a law enforcement officer;
- (f) deprive a person of the right to a fair trial or impartial adjudication;
- (g) interfere with the gathering of intelligence information respecting organizations or persons;
- (h) reveal a record which has been confiscated from a person by a peace officer in accordance with an Act or regulation;
- (i) endanger the security of a building or the security of a vehicle carrying items, or of a system or procedure established for the protection of items, for which protection is reasonably required;
- (j) facilitate the escape from custody of a person who is under lawful detention;
- (k) jeopardize the security of a centre for lawful detention; or
- (l) promote the commission of offences or hamper the control of crime.

(4) Subsection (3) does not apply to a record,

Exceptions

- (a) revealing that the scope of any law enforcement investigation has exceeded the limits imposed by law;
- (b) revealing the use of illegal law enforcement techniques or procedures;
- (c) containing any general outline of the structure and programs of a law enforcement agency;
- (d) that is a report on the degree of success achieved in a law enforcement program or programs, including statistical analysis;
- (e) that is a report prepared in the course of routine law enforcement, inspections or investigations by an agency which has the function of enforcing and regulating compliance with a law other than the criminal law; and
- (f) that is a report on a law enforcement investigation where the substance of the report has been disclosed

to the person or body that was the subject of the investigation.

Refusal to
confirm or
deny exist-
ence of
record

(5) Despite subsection 8 (1), a head may refuse to confirm or deny the existence of a record to which subsection (3) applies.

Review

(6) Where a head refuses to confirm or deny the existence of a record, the person who made the request may ask the Director to review the head's decision.

Exemption re
relations with
other
governments

(7) A head may refuse to disclose a record whose disclosure could reasonably be expected to,

- (a) prejudice the relations of the Government of Ontario or the Government of Canada with a foreign government;
- (b) prejudice the defence of Canada; or
- (c) reveal information given or received in confidence by the Government of Ontario.

Exemption
re
commercial
information

(8) A head may refuse to disclose a record that reveals a trade secret or other commercial or financial information, except for statistical aggregates, where the disclosure could reasonably be expected to,

- (a) prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- (b) result in information of the same kind no longer being supplied to the institution, where,
 - (i) the information was supplied to the institution on a confidential basis, and
 - (ii) where it is in the public interest that similar information continue to be supplied to the institution;
- (c) result in undue loss or gain to any person, group, committee or financial institution or agency; or
- (d) unreasonably expose the institution or a commercial or financial enterprise, including a Crown corporation, to disadvantage in competitive activity or in a

present or likely process of negotiation, contractual arrangement or similar process.

(9) Subsection (8) does not apply to a record where the public interest in its disclosure outweighs the commercial interest in its continued confidentiality. Exception

(10) A head may refuse to disclose a record that is subject to solicitor-client privilege and was prepared with a view to or for the purpose of litigation. Solicitor-client privilege

(11) A head may refuse to disclose a record that is specifically exempted from disclosure by a statute that, Exemption re statutory confidentiality provisions

(a) requires that the record be withheld from the public in such a manner as to give the head no discretion; or

(b) establishes particular criteria for withholding or refers to particular types of records to be withheld from the public.

(12) A head may refuse to disclose a record where disclosure could reasonably be expected to threaten the safety of an individual. Exemption re danger to safety

12.—(1) A head shall not disclose personal information to any person other than the individual except, Personal privacy

(a) upon the prior written request or consent of the individual, if the record is one to which the individual is entitled to have access;

(b) in compelling circumstances affecting the health or safety of an individual, if upon disclosure notification thereof is mailed to the last known address of the individual to whom the record pertains;

(c) personal information collected and maintained specifically for the purpose of creating a record available to the general public;

(d) under an Act of Ontario or Canada that expressly authorizes the disclosure;

(e) for a research purpose if,

(i) the use of disclosure is consistent with the conditions or reasonable expectations of use and disclosure under which the personal information was provided, collected or obtained,

- (ii) the research purpose for which the disclosure is to be made,
 - (A) cannot be reasonably accomplished unless the information is provided in individually identifiable form, and
 - (B) justifies the risk to the individual which additional exposure of the information might bring,
- (iii) the qualifications of those who will conduct the research justify the conclusion that the research objectives will be satisfactorily achieved,
- (iv) the research proposal is soundly designed in terms of its ability to achieve the stated research objectives, its cost effectiveness, and its minimization of disruption of the operations of the institution, and
- (v) terms and conditions relating to,
 - (A) security and confidentiality,
 - (B) the destruction of the individual identifier or identifiers associated with the record at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research or statistical project, and
 - (C) the prohibition of any subsequent use or disclosure of the record in individually identifiable form without the express authorization of the institution,have been approved by the Data Protection Authority under clause 40 (g) and the person obtaining the record has filed with the Data Protection Authority a written statement indicating that the person understands and will abide by the terms and conditions; or
- (f) if the disclosure does not constitute an unjustified invasion of personal privacy.

(2) A person or tribunal, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider whether,

Criteria re
invasion of
privacy

- (a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Ontario and its agencies to public scrutiny;
- (b) access to the personal information may promote public health and safety;
- (c) access to the personal information will promote informed choice in the purchase of goods and services;
- (d) the personal information is relevant to a fair determination of rights affecting the person who made the request;
- (e) the data subject will be exposed unfairly to pecuniary or other harm;
- (f) the personal information is highly sensitive;
- (g) the personal information is unlikely to be accurate or reliable; and
- (h) the personal information has been supplied by the data subject in confidence,

and shall take into account any other relevant circumstance.

(3) A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,

Presumed
invasion of
privacy

- (a) relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation, except for personal information confirming an individual's presence in a health care facility;
- (b) was compiled and is identifiable as part of an investigation into a possible violation of criminal law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;
- (c) relates to eligibility for social service or welfare benefits or to the determination of benefit levels;

- (d) relates to employment history;
- (e) was obtained on an income tax return or similar return or gathered by an institution for the purpose of collecting an income tax or similar tax;
- (f) describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;
- (g) consists of personal recommendations or evaluations, character references or personnel evaluations;
- (h) indicates the individual's racial or ethnic origin or religious or political beliefs and associations; or
- (i) is required to be kept confidential by law.

Severability
of record

13. Where an institution receives a request for access to a record that contains information which the head may refuse to disclose and information which the head may not refuse to disclose, the head shall disclose any reasonably severable portion of the record.

Publication
of
information
re
institutions

14. The Lieutenant Governor in Council shall cause to be published annually a compilation listing all institutions and, in respect of each institution, setting out,

- (a) where a request for a record should be made;
- (b) where the material referred to in sections 15, 16 and 17 has been made available;
- (c) details of all boards, councils, committees and other bodies consisting of two or more persons that form part of or have been established for the purpose of advising the institution, and whose meetings are open to the public, or whose minutes of meetings are available for public inspection; and
- (d) whether the institution has a library or reading room which is available for public use, and if so, its address.

Operation of
institutions

15. A head shall make available for inspection and copying by the public, at an office of the institution and at another government office or a public library, a fully indexed compilation containing,

- (a) a description of the organization and operating procedures of the institution, including,
 - (i) the functions of and the programs administered by each office, division or branch of the institution,
 - (ii) the general types of decisions made by each such office, division or branch in the exercise of any such function or in the administration of any such program,
 - (iii) the titles of officers who have final authority to make any such decisions, and any delegation of that authority,
 - (iv) the formal and informal administrative procedures used for consultation with the public or in the making of any such delegation, and
 - (v) the general manner by which matters arising in the exercise of any function are initiated, processed, channeled and determined;
- (b) a list of the general classes or types of records prepared by or in the possession of the institution;
- (c) the title and business address of each head of the institution who has been designated under section 2 with responsibility to process requests for records and the class of records in relation to which each officer has responsibility; and
- (d) any amendment of information referred to in clauses (a), (b) and (c) which has been made available in accordance with this section.

16.—(1) A head shall make available, in the manner described in section 15, any document which has been prepared by the institution, whether before or after this Act comes into force, and issued to officers of the institution and which contains,

Institution
documents

- (a) interpretations of the provisions of any enactment or scheme administered by the institution where the interpretations are to be applied by, or are to be guidelines for, any officer who determines,

- (i) an application by a person for a right, privilege or benefit which is conferred by the enactment or scheme,
 - (ii) whether to suspend, revoke or impose new conditions on a right, privilege or benefit already granted to a person under the enactment or scheme, or
 - (iii) whether to impose an obligation or liability on a person under the enactment or scheme; or
- (b) instructions to, and guidelines for, officers of the institution on the procedures to be followed, the methods to be employed or the objectives to be pursued in their administration or enforcement of the provisions of any enactment or scheme administered by the institution that affects the public.

Deletions

(2) A head may delete from a document made available under subsection (1) any record which the head would be entitled to refuse to disclose, except under subsection 11 (2), where the head includes in the document,

- (a) a statement of the fact that a deletion has been made;
- (b) a brief statement of the nature of the record which has been deleted; and
- (c) a reference to the provision of this Act on which the head relies.

Amendments

(3) Subsections (1) and (2) apply to amendments to documents.

Index

(4) The documents made available under this section shall be fully indexed.

Opinions of institution

17. A head shall make available, in the manner described in section 15, an index of all the institution's final opinions, orders, including concurring and dissenting opinions, and orders made in the adjudication of cases affecting the public.

Annual report

18.—(1) A head shall make an annual report, in accordance with subsection (2), to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session.

Contents of report

(2) A report made under subsection (1) shall specify,

- (a) the number of requests for access to records made to the institution;
- (b) the number of refusals by the head to disclose a document, the provisions of this Act under which disclosure was refused, and the number of occasions on which each provision was invoked;
- (c) the number of applications to the Director for review of a refusal to disclose a document, the number of applications for review of a decision by the head to charge a fee under subsection 9 (1) and, in respect of each application for review of a refusal to disclose a document,
 - (i) the provision of this Act on which the head relied,
 - (ii) the decision of the Director, and
 - (iii) the details of the Director's order;
- (d) the amount of fees collected by the institution under subsection 9 (1);
- (e) the location of any reading room or other facility provided by the institution for the use of a person wishing to inspect or copy a document possessed by the institution;
- (f) the publications, documents or other information regularly on display in the reading room or other facility; and
- (g) such other information as indicates an effort by the institution to put into practice the purpose of this Act.

19.—(1) Where a head proposes to disclose a record or part thereof that in the opinion of the head may affect the interests of the data subject, the head may, within thirty days after the request for access is received, give written notice in accordance with subsection (2) to the data subject.

Notice to
data subject

(2) The notice shall contain,

Contents of
notice

- (a) a statement that the head intends to release a record or part thereof that may affect the interests of the data subject;

- (b) a description of the contents of the record or part thereof that relates to the data subject; and
- (c) a statement that the data subject may, within twenty days after the notice is given, make representations to the head as to why the record or part thereof should not be disclosed.

Extension of
time

(3) A head may extend the time set out in subsection (1) in respect of a request under this Act where the time limit set out in section 5 is extended under section 7 in respect of the same request, but no extension period under this subsection shall exceed the period of the extension under section 7.

Representa-
tion re
disclosure

(4) Where a notice is given under subsection (1),

- (a) the data subject may, within twenty days after the notice is given, make representations to the head as to why the record or the part thereof should not be disclosed; and
- (b) the head shall, within thirty days after the notice is given, decide whether or not to disclose the record or the part thereof and give written notice of the decision to the data subject and the person who made the request.

Written
representa-
tions

(5) Representations under clause (4) (a) shall be made in writing unless the head permits them to be made orally.

Notice of
head's
decision

(6) A notice given under clause (4) (b) shall include,

- (a) a statement that the data subject may ask the Director to review the decision within twenty days after the notice is given; and
- (b) a statement that the person who made the request will be given access thereto or to a part thereof, unless within twenty days after the notice is given, a review of the decision is requested.

Access to be
given unless
data subject
appeals

(7) Where, under clause (4) (b), the head decides to disclose the record or a part thereof, the head shall give the person who made the request access to the record or part thereof after a day twenty days after notice is given under clause (4) (b), unless the data subject asks the Director to review the decision.

Director

20.—(1) The Lieutenant Governor in Council may appoint a Director of Fair Information Practices.

(2) The Director may appoint under the *Public Service Act* such officers and employees as are considered necessary from time to time for the Director's purposes. Staff
R.S.O. 1980,
c. 418

(3) The Director shall receive such salary or remuneration and expenses as may be fixed by the Lieutenant Governor in Council by order. Remunera-
tion

(4) The accounts of the Director shall be audited annually by the Provincial Auditor. Audit

(5) The Director shall make an annual report, in accordance with subsection (6), to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session. Annual
report

(6) A report made under subsection (5) shall contain, Contents of
report

(a) an indication of the nature and ultimate resolutions of reviews carried out under subsection 23 (1);

(b) an assessment of the extent to which institutions are complying with this Act;

(c) the Director's recommendations with respect to the practices of particular institutions and with respect to proposed revisions to the Act and regulations.

21.—(1) The Fair Information Practices Tribunal is hereby established. Tribunal
established

(2) The Tribunal shall be composed of a chairman and at least three other members to be appointed by the Lieutenant Governor in Council. Composition

(3) The members of the Tribunal shall receive such salaries or remuneration and expenses as may be fixed by the Lieutenant Governor in Council. Remunera-
tion

(4) The chairman of the Tribunal shall report annually upon the affairs of the Tribunal to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session. Annual
report

(5) The chairman of the Tribunal shall from time to time publish a summary of the Tribunal's decisions and its reasons therefor. Summary of
decisions

(6) The accounts of the Tribunal shall be audited annually by the Provincial Auditor. Audit

- Staff (7) Such officers and employees as are considered necessary from time to time for the purposes of the Tribunal may be appointed under the *Public Service Act*.
- R.S.O. 1980, c. 418
- Review by Director **22.**—(1) A person who has made a request for access to a record, and, where section 19 applies, a data subject, may ask the Director of Fair Information Practices to review any decision respecting the request by making a request to the Director in writing within thirty days of becoming aware of the decision.
- Notice of review (2) Where the Director receives a request under subsection (1), the Director shall review the decision, upon giving notice of the review to all interested persons.
- Nature of review **23.**—(1) The Director shall informally inquire into and investigate the circumstances of the decision to be reviewed and may, in writing, appoint any person to assist him or her.
- Informality R.S.O. 1980, c. 484 (2) The *Statutory Powers Procedure Act* does not apply to a review under subsection (1).
- Private hearing (3) The Director may conduct the review or part thereof *in camera*.
- Representations by interested parties (4) In the course of an inquiry or investigation the Director shall give a reasonable opportunity to make representations to all interested persons.
- Consent resolution or order **24.**—(1) After the inquiry or investigation into the circumstances of the decision is complete, the Director shall attempt to reconcile the differences between the parties and, where the dispute cannot be satisfactorily resolved on consent, shall make an order.
- Terms and conditions (2) The Director's order may contain any terms and conditions the Director considers appropriate.
- Notice of order (3) The Director shall give the persons who received notice of the review under subsection 22 (2) written notice of the order, including,
- (a) the reasons therefor; and
 - (b) a statement that a person who made representations under subsection 23 (4) may appeal the order to the Fair Information Practices Tribunal.
- Appeal **25.**—(1) A person who made representations under subsection 23 (4) and wishes to exercise the right of appeal may

file a written notice of appeal with the Fair Information Practices Tribunal within thirty days of the date of the Director's order.

(2) Despite section 9 of the *Statutory Powers Procedure Act*, the Tribunal may hear representations by the head in the absence of the person who made the request where the Tribunal considers that a private hearing will facilitate a full explanation of the reasons for the decision.

Tribunal may hold private hearing
R.S.O. 1980, c. 484

26.—(1) This Act does not limit the information available to a litigant under the doctrine of Crown privilege.

Crown privilege

(2) This Act does not affect the power of a court or Tribunal to compel a witness to testify or compel the production of a document.

Powers of courts and tribunals

PART II

PROTECTION OF INDIVIDUAL PRIVACY

27. No person shall collect personal information on behalf of an institution unless the collection is expressly authorized by statute, or necessary to the proper administration of a lawfully authorized administration activity.

Protection of personal information

28.—(1) Personal information that is intended to be used by an institution for an administrative purpose shall only be collected directly from the individual unless,

Direct collection

- (a) the individual authorizes another manner of collection;
- (b) the personal information may be disclosed to the institution concerned under section 31; or
- (c) the Data Protection Authority has authorized the particular act of collection under clause 40 (d).

(2) Where personal information is collected on behalf of an institution, the head shall inform the individual of,

Notice to data subject

- (a) the legal authority for the collection;
- (b) the principal purpose or purposes for which the personal information is intended to be used;
- (c) whether disclosure is voluntary or mandatory and the consequences of failure to provide the personal information;

- (d) the anticipated use and dissemination of the personal information;
- (e) alternative sources for verification of the personal information;
- (f) the name, title and business telephone number of a public official who can answer the individual's questions about the collection; and
- (g) whether the individual will have access or correction rights with respect to the personal information.

Retention of
personal
information

29.—(1) Personal information that has been used by an institution for an administrative purpose shall be retained after use by the institution for the period prescribed by regulation in order to ensure that the individual to whom it relates has a reasonable opportunity to obtain access to the personal information.

Accuracy and
completeness

(2) A head shall ensure that the institution complies with the regulations with respect to the accuracy and completeness of personal information that is used for an administrative purpose.

Disposal of
personal
information

(3) A head shall dispose of personal information under the control of the institution in accordance with the regulations and in accordance with any directives or guidelines issued by the responsible minister.

Protection of
personal
information

30. Personal information under the control of an institution shall not be used by the institution without the consent of the individual except,

- (a) for the purpose for which it was obtained or compiled or for a use consistent with the purpose; or
- (b) for a purpose for which the information may be disclosed to the institution under section 31.

Where
disclosure
permitted

31.—(1) A head may disclose personal information under the control of the institution,

- (a) in accordance with Part I;
- (b) where disclosure is made to an officer or employee of the institution who needs the record in the performance of his or her duties and where disclosure is necessary and proper in the discharge of the institution's functions;

- (c) under statutory provisions that establish specific criteria for the use or disclosure of the information;
- (d) where disclosure is by a law enforcement institution to another law enforcement institution in Canada or to a law enforcement institution in a foreign country under a written agreement, treaty or legislative authority;
- (e) in compelling circumstances affecting the health and safety of an individual;
- (f) in compassionate circumstances, to facilitate contact with the next of kin or a friend of an individual who is injured, ill or deceased;
- (g) to a member of the Legislative Assembly who has been authorized by a constituent to make an inquiry on his behalf or, where the constituent is incapacitated, has been authorized by a relative or legal representative of the constituent;
- (h) to the Provincial Auditor;
- (i) to the Ombudsman;
- (j) to the Data Protection Authority;
- (k) to the Director of Fair Information Practices;
- (l) to the Fair Information Practices Tribunal;
- (m) to the Government of Canada in order to facilitate the auditing of shared cost programs;
- (n) to the Archives of Ontario; and
- (o) to Statistics Canada.

(2) A head shall retain a copy of every request received by the institution under clause (1) (d) for the period of time as may be prescribed by regulation and shall, on the request of the Data Protection Authority, make the copy available to the Authority.

Retention of
requests re
law
enforcement

32.—(1) A head shall retain a record of any use by the institution of personal information contained in a personal data bank and of any use or purpose for which the information is disclosed where the use or purpose is not included in the statements of uses and purposes set forth under clause

Retention of
record of use

34 (1) (d) and shall attach or link the record of use to the personal information.

Record of
use part of
personal
information

(2) A record retained under subsection (1) forms part of the personal information to which it is attached or linked.

Notice and
publication

(3) Where personal information in a data bank under the control of an institution is used or disclosed for a use consistent with the purpose for which the information was obtained or compiled by the institution but the use is not included in the statement of consistent uses set forth under clause 34 (1) (d), the head shall,

- (a) forthwith notify the Data Protection Authority of the use or disclosure; and
- (b) ensure that the use is included in the next statement of consistent uses set forth in the index.

Data
banks

33. A head shall cause to be included in a data bank all personal information under the control of the institution that,

- (a) has been used, is being used or is available for use for an administrative purpose; or
- (b) is organized or intended to be retrieved by the individual's name or by an identifying number, symbol or other particular assigned to the individual.

Personal
information
data bank
index

34.—(1) The responsible minister shall publish at least once each year an index of all data banks containing personal information setting forth, in respect of each data bank,

- (a) its name and location;
- (b) the legal authority for its establishment;
- (c) the types of personal information maintained in it;
- (d) the principal uses of the personal information and the categories of users to whom disclosures from the system are typically made;
- (e) any other uses and purposes for which personal information in the data bank is used or disclosed on a regular basis;
- (f) the categories of individuals for whom records are maintained in the system;

- (g) the policies and practices applicable to the system with respect to storage, retrievability, access controls, retention and disposal of personal information maintained in the system; and
- (h) the title, business address, and business telephone number of the official responsible for the operation of the data bank.

(2) The responsible minister shall cause the index referred to in subsection (1) to be made available throughout Ontario in conformity with the principle that every person is entitled to reasonable access to the index.

Availability
of index

35.—(1) Every individual has a right of access to,

Right of
access to
personal
information

- (a) any personal information about the individual contained in a data bank under the control of an institution; and
- (b) any other personal information about the individual under the control of an institution with respect to which the individual is able to provide sufficiently specific information to render it reasonably retrievable by the institution.

(2) Every individual who is given access under clause (1) (a) to personal information about the individual that has been used, is being used or is available for use for an administrative purpose is entitled to,

Right of
correction

- (a) request correction of the personal information where the individual believes there is an error or omission therein;
- (b) require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made; and
- (c) require that any person or body to whom the personal information has been disclosed for use for an administrative purpose within the year before the time a correction is requested or a statement of disagreement is required be notified of the correction or statement of disagreement.

36.—(1) An individual seeking access to personal information about the individual shall make a request therefor in writing to the institution that has control of the personal

Request

information and shall identify the data bank or otherwise identify the location of the personal information.

Access
procedures

(2) Subsection 4 (2), and sections 5, 6, 7, 8 and 13 apply with all necessary modifications to a request made under subsection (1).

Manner of
access

(3) Subject to the regulations, where an individual is to be given access to personal information requested under subsection (1), the head shall,

- (a) permit the individual to examine the personal information; or
- (b) provide the individual with a copy thereof.

Compre-
hensible form

(4) Where access to personal information is to be given, the head shall ensure that the personal information is provided to the individual in a comprehensible form and in a manner which indicates the general terms and conditions under which the personal information is stored and used.

Exemptions

37. A head may refuse to disclose personal information,

- (a) to which subsections 11 (1), (3), (4), (5), (7), (8), (9), (10) and (11) apply;
- (b) whose disclosure would constitute an unwarranted invasion of another individual's personal privacy;
- (c) that is evaluative or opinion material compiled solely for the purpose of determining suitability, eligibility or qualifications for the awarding of government contracts and other benefits if its disclosure would reveal the identity of a source who furnished information to the institution in confidence;
- (d) that is medical information whose disclosure would prejudice the health of the data subject;
- (e) that is a correctional record whose disclosure could reasonably be expected to,
 - (i) seriously disrupt an individual's institutional, parole, or mandatory supervision program,
 - (ii) reveal information supplied in confidence, or
 - (iii) result in physical or other harm to the individual or another person; or

- (f) that is a research or statistical record.

38.—(1) An individual who has made a request for access to personal information under subsection 36 (1) or a request for correction under subsection 35 (2) may ask the Director of Fair Information Practices to review any decision respecting the request by making a request to the Director in writing within thirty days of becoming aware of the decision.

Review by
Director

(2) Subsection 22 (2), and sections 23, 24 and 25 apply, with all necessary modifications, to a request for review under subsection (1).

Review and
further
appeal

39.—(1) The Data Protection Authority is hereby established.

Authority
established

(2) The Authority shall be composed of a chairman and at least four other members to be appointed by the Lieutenant Governor in Council.

Composition

(3) The chairman of the Authority shall report annually upon the affairs of the Authority to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session.

Annual
report

(4) The accounts of the Authority shall be audited annually by the Provincial Auditor.

Audit

(5) Such officers and employees as are considered necessary from time to time for the purposes of the Authority may be appointed under the *Public Service Act*.

Staff

R.S.O. 1980,
c. 418

40. The Data Protection Authority may,

Powers and
duties of
Authority

- (a) offer comment on the privacy protection implications of proposed legislative schemes or government programs;
- (b) advise on the interpretation and implementation of this Act;
- (c) require an institution to,
 - (i) cease a collection practice, and
 - (ii) destroy collections of personal information,
 that contravene this Act;

- (d) in appropriate circumstances, authorize the collection of personal information otherwise than directly from the individual;
- (e) engage in or commission research into issues affecting the purposes of this Act;
- (f) receive representations from the public concerning the operation of this Act; and
- (g) consider and approve or reject terms and conditions related to a research proposal.

Regulations

41. Subject to the approval of the Lieutenant Governor in Council, the Data Protection Authority may make regulations,

- (a) respecting the manner of access to original records under section 10;
- (b) respecting the manner of access to personal information under subsection 36 (3);
- (c) respecting records which may be produced from machine readable records;
- (d) setting standards for and requiring administrative, technical and physical safeguards to ensure the security and confidentiality of records and personal information under the control of institutions;
- (e) setting standards for the accuracy and completeness of personal information that is under the control of an institution and used for an administrative purpose;
- (f) prescribing time periods for the purposes of subsections 29 (1) and 31 (2); and
- (g) respecting any matter necessary to carry out effectively the purpose of this Act.

Offences

42.—(1) No person shall,

- (a) wilfully disclose personal information in contravention of this Act;
- (b) wilfully maintain a data bank that contravenes this Act; or

- (c) obtain or attempt to obtain personal information under false pretences.

(2) Every person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$5,000. Penalty

43. An individual may by action recover from the Crown in right of Ontario pecuniary and other damages suffered as a result of, Right of action

- (a) a refusal to correct inaccurate personal information under subsection 35 (2);
- (b) a contravention of this Act relating to the collection or disclosure of personal information.

44. A head may by order delegate any of his or her powers and duties under this Act to an officer or employee of the institution. Head may delegate

45. The Lieutenant Governor in Council may by order designate a minister of the Crown to be the responsible minister for the purposes of this Act. Responsible minister

46.—(1) The Standing Committee on Procedural Affairs shall undertake a comprehensive review of all confidentiality provisions contained in Acts in existence on the day this Act comes into force and shall make recommendations to the Government of Ontario regarding, Review of other Acts

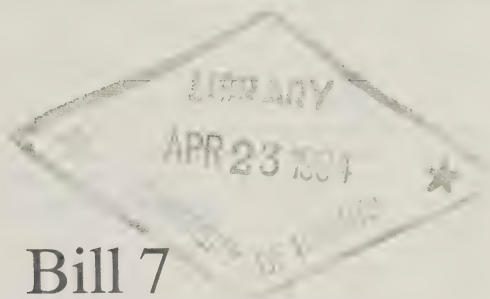
- (a) the repeal of unnecessary or inconsistent provisions; and
- (b) the amendment of provisions that do not conform to the purposes of this Act.

(2) A confidentiality provision in an Act in existence on the day this Act comes into force is deemed to be repealed on a day two years after the day this Act comes into force unless it is amended or reaffirmed by the Legislative Assembly. Deemed repeal

47. This Act binds the Crown. Crown bound

48. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

49. The short title of this Act is the *Freedom of Information and Protection of Privacy Act, 1983*. Short title



Bill 7

An Act to incorporate The Toronto Futures Exchange

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations

1st Reading April 18th, 1983

2nd Reading April 18th, 1983

3rd Reading

Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The purpose of the Bill is to create a commodity futures exchange operated by a corporation without share capital to be known as The Toronto Futures Exchange. The statutory provisions that govern the establishment and operation of The Toronto Futures Exchange are similar to the provisions of the *Toronto Stock Exchange Act, 1982*. The Board of Governors of The Toronto Futures Exchange will consist of eleven members, of whom five will be elected by members of the Futures Exchange, three will be elected by The Toronto Stock Exchange, two will be public directors and one will be the President. The Board of Governors has authority to pass by-laws, subject to the provisions of the *Corporations Act*, and the Board has power to discipline its members or to delegate its disciplinary power to a committee established by the Board. The Bill provides that the Futures Exchange may hold property without the limitations contained in the *Corporations Act* and that meetings of the Board and its committees may be held by conference telephone, electronic or other communication facilities. The Bill also provides that the Futures Exchange will be subject to the oversight of the Ontario Securities Commission and the provisions of the *Commodity Futures Act*.

Bill 7

1983

An Act to incorporate The Toronto Futures Exchange

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “associate”, “director”, “issuer” and “senior officer” have the same meaning as in the *Securities Act*; R.S.O. 1980,
c. 466
- (b) “board of directors” means the board of directors of The Toronto Futures Exchange;
- (c) “commodity”, “commodity futures contract” and “commodity futures option” have the same meaning as in the *Commodity Futures Act*; R.S.O. 1980,
c. 78
- (d) “Corporation” means The Toronto Futures Exchange;
- (e) “exchange” means the exchange operated by the Corporation;
- (f) “futures member” means a member of the Corporation who conducts the business of trading commodities, options on commodities, commodity futures contracts and commodity futures options and who is admitted to membership in accordance with the by-laws; ▲
- (g) “insider” means,
 - (i) every director or senior officer of an issuer,
 - (ii) every director or senior officer of a company that is itself an insider or subsidiary of an issuer,

(iii) any person or company who beneficially owns, directly or indirectly, voting securities of an issuer or who exercises control or direction over voting securities of an issuer or a combination of both carrying more than 10 per cent of the voting rights attached to all voting securities of the issuer for the time being outstanding other than voting securities held by the person or company as underwriter in the course of a distribution, and

(iv) an issuer where it has purchased, redeemed or otherwise acquired any of its securities, for so long as it holds any of its securities;

(h) "public director" means a member of the board of directors elected under subsection 8 (3);

(i) "sponsor member" means The Toronto Stock Exchange, and any other stock exchange, securities exchange, commodities exchange, association of securities or commodities dealers or similar organization that is admitted to membership in accordance with the by-laws.

Corporation
established

2. There is hereby established a corporation without share capital under the name of "The Toronto Futures Exchange".

Head office

3. The head office of the Corporation shall be situate in The Municipality of Metropolitan Toronto.

Object

4.—(1) The object of the Corporation is to operate an exchange in Ontario for trading in commodities, options on commodities, commodity futures contracts and commodity futures options by the members of the Corporation and other persons authorized under subsection (2).

Trading by
non-members

(2) The board of directors may authorize persons other than members to trade on the exchange, subject to such terms and conditions as are imposed by the board of directors.

Compliance
with
R.S.O. 1980,
c. 78

(3) The Corporation shall operate the exchange in a manner that does not contravene the requirements of the *Commodity Futures Act*, the regulations made thereunder, and any decision of the Ontario Securities Commission made under that Act and regulations, and the Corporation may impose any additional or higher requirement within its jurisdiction.

5. The Corporation shall be carried on without the purpose of gain for its members and any profits or other accretions to the Corporation shall be used in promoting its object.

Non-profit

6. The membership of the Corporation shall be composed of futures members, sponsor members and such other classes of membership as the by-laws provide.

Membership

7.—(1) The affairs of the Corporation shall be managed by a board of directors, who may be referred to as governors, consisting of,

Board of directors

➡ (a) the President of the Corporation;

(b) two public directors or, where the by-laws so provide, up to four public directors; and ➡

(c) eight other directors elected by the members in accordance with this Act and the by-laws.

(2) Where a vacancy occurs on the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board of directors remains in office.

Vacancies

8.—(1) The directors, except the President and the public directors, shall be elected by the members annually in such manner as the by-laws provide except that three directors shall be elected by the sponsor members and, subject to subsection (2), five directors shall be elected by the futures members of the Corporation.

Election of directors

(2) Where the class of futures members includes a group of one or more futures members who are not members of The Toronto Stock Exchange or affiliates, associates or insiders of a member of The Toronto Stock Exchange, one of the five directors elected by futures members shall be elected by a majority of the votes cast by the futures members that form the group.

Idem

(3) The public directors shall be elected annually by the board of directors at the first meeting of the board following the annual meeting of the Corporation, to hold office until the next annual meeting of the Corporation, and any vacancy occurring in the office of the public directors may be filled by the election of another person for the remainder of the term by the directors then in office.

Election of public directors

(4) A person is not eligible to be a public director if the person is,

Eligibility of public directors

(a) a futures member of the Corporation;

- (b) an associate or insider of a futures member of the Corporation;
- (c) a member of The Toronto Stock Exchange; or
- (d) an associate or insider of a member of The Toronto Stock Exchange.

Idem

↓
(5) No person shall be elected as a public director unless the person's nomination for election is approved by the Lieutenant Governor in Council on the recommendation of a nominating committee constituted in accordance with the by-laws and co-chaired by the President of the Corporation and the President of The Toronto Stock Exchange. ▲

First board
of directors

(6) Notwithstanding subsection 7 (1) or subsections (1) to (5) of this section, the first board of directors shall consist of five persons appointed by the Lieutenant Governor in Council on the recommendation of the Board of Directors of The Toronto Stock Exchange who shall hold office until the board of directors is reconstituted in accordance with this Act.

First meeting

(7) The first board of directors shall call a meeting of the members within three months of the coming into force of this Act for the purpose of reconstituting the board of directors in accordance with this Act.

Election of
chairman,
vice-
chairman

9.—(1) The chairman and every vice-chairman of the board of directors shall be elected by the board of directors.

Appointment
of President

(2) The President of the Corporation shall be appointed by the board of directors and shall be a person nominated by the Board of Directors of The Toronto Stock Exchange.

Eligibility for
appointment

(3) A person is not eligible to be the President if the person is,

- (a) a futures member of the Corporation;
- (b) an associate or insider of a futures member of the Corporation;
- (c) a member of The Toronto Stock Exchange; or
- (d) an associate or insider of a member of The Toronto Stock Exchange.

Removal of
President

(4) The President may be removed from office by the board of directors upon a vote of two-thirds of the directors then in office.

(5) Each officer of the Corporation, except the chairman and any vice-chairman of the board of directors, the President, the secretary and the treasurer, shall be appointed by the President with the approval of the board of directors. Officers

(6) No officer of the Corporation, except the chairman and any vice-chairman of the board of directors, the President, the secretary and the treasurer, shall be a director or member of the Corporation. Idem

10. The President shall be the chief executive officer of the Corporation. Duty of President

11.—(1) For the purposes of the object of the Corporation, the board of directors has the power to govern and regulate, Power of board

- (a) the exchange;
- (b) the partnership and corporate arrangements of the members and other persons authorized to trade on the exchange, including requirements as to financial condition; and
- (c) the business conduct of members and other persons authorized to trade on the exchange and of their employees and agents and other persons associated with them in the conduct of business,

and, in the exercise of such powers and in addition to their power to pass by-laws under Part III of the *Corporations Act*, the board of directors may pass such by-laws and make such rules and regulations and issue such orders and directions pursuant to such by-laws as it considers necessary for the purpose, including the imposition of penalties and forfeitures for the breach of any such by-law, rule, regulation, direction or order.

R.S.O. 1980,
c. 95

(2) If the board of directors passes a by-law that provides for the making of an order restricting or suspending the privileges of any person or company of a class referred to in the by-law before a hearing of the matter is held, the by-law shall provide that any such restriction or suspension shall be imposed only where the board of directors considers it necessary for the protection of the public interest and that the restriction or suspension shall expire fifteen days after the date on which the order was made unless a hearing is held within that period of time to confirm or set aside the order.

Immediate
restriction or
suspension

Delegation
of powers

(3) The board of directors may pass by-laws delegating to one or more persons or committees the power of the board of directors,

- (a) to consider, hold hearings and make determinations regarding applications for any acceptance, approval, registration or authorization and to impose terms and conditions on any such acceptance, approval, registration or authorization;
- (b) to investigate and examine the business conduct of members and other persons authorized to trade on the exchange and of their employees and agents and other persons associated with them in the conduct of business; and
- (c) to hold hearings, make determinations and impose suspensions or other discipline on members and persons referred to in clause (b) in matters related to business conduct,

subject to such limitations, restrictions, conditions and requirements as the board of directors may set out in the by-laws.


Meetings by
telephone,
etc.

12. A meeting of the board of directors or of any committee established by the board of directors may be held by means of telephone, electronic or other communication facilities if,

- (a) the telephone, electronic or other communication facilities permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously; and
- (b) all of the directors or committee members, as the case may be, participating in the meeting consent,

and a person participating in such a meeting by such means shall be deemed to be present at the meeting.

Power to
hold land

13. The Corporation may acquire by purchase, lease or otherwise, and may hold, for any period of time, any land or interest therein in The Municipality of Metropolitan Toronto whether or not such land or interest is necessary for its actual use or occupation or for carrying on its undertaking and may sell, charge, lease or otherwise deal with or dispose of such land or any interest therein. 

Application
of
R.S.O. 1980,
c. 95

14. The *Corporations Act*, except sections 131, 275, 276 and 312, applies to the Corporation, except,

- (a) to the extent that the provisions thereof are inconsistent with this Act;
- (b) that a public director may not be removed from office under section 67 of that Act; and
- (c) that the by-laws of the Corporation may,
 - (i) fix the class or classes of persons who may be appointed by a proxy to attend and act at meetings as nominees of futures members provided that one such class shall be futures members,
 - (ii) provide for and regulate the admission of members, including the requiring of approval by the directors or members, or both, at meetings or individually, and the manner in which such approval is to be given, and
 - (iii) fix the quorum for meetings of the board at four or any larger number of directors as specified in the by-laws.

15. Nothing in this Act shall be construed to derogate from the powers of the Ontario Securities Commission under the *Commodity Futures Act* or any other Act.

Powers of
Ontario
Securities
Commission
R.S.O. 1980,
c. 78

16. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

17. The short title of this Act is the *Toronto Futures Exchange Act, 1983*.

Short title



Bill 7

*(Chapter 19
Statutes of Ontario, 1983)*

An Act to incorporate The Toronto Futures Exchange

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	April 18th, 1983
<i>2nd Reading</i>	April 18th, 1983
<i>3rd Reading</i>	May 17th, 1983
<i>Royal Assent</i>	May 26th, 1983

Bill 7

1983

An Act to incorporate The Toronto Futures Exchange

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “associate”, “director”, “issuer” and “senior officer” have the same meaning as in the *Securities Act*; R.S.O. 1980,
c. 466
- (b) “board of directors” means the board of directors of The Toronto Futures Exchange;
- (c) “commodity”, “commodity futures contract” and “commodity futures option” have the same meaning as in the *Commodity Futures Act*; R.S.O. 1980,
c. 78
- (d) “Corporation” means The Toronto Futures Exchange;
- (e) “exchange” means the exchange operated by the Corporation;
- (f) “futures member” means a member of the Corporation who conducts the business of trading commodities, options on commodities, commodity futures contracts and commodity futures options and who is admitted to membership in accordance with the by-laws;
- (g) “insider” means,
 - (i) every director or senior officer of an issuer,
 - (ii) every director or senior officer of a company that is itself an insider or subsidiary of an issuer,

- (iii) any person or company who beneficially owns, directly or indirectly, voting securities of an issuer or who exercises control or direction over voting securities of an issuer or a combination of both carrying more than 10 per cent of the voting rights attached to all voting securities of the issuer for the time being outstanding other than voting securities held by the person or company as underwriter in the course of a distribution, and
- (iv) an issuer where it has purchased, redeemed or otherwise acquired any of its securities, for so long as it holds any of its securities;
- (h) "public director" means a member of the board of directors elected under subsection 8 (3);
- (i) "sponsor member" means The Toronto Stock Exchange, and any other stock exchange, securities exchange, commodities exchange, association of securities or commodities dealers or similar organization that is admitted to membership in accordance with the by-laws.

Corporation
established

2. There is hereby established a corporation without share capital under the name of "The Toronto Futures Exchange".

Head office

3. The head office of the Corporation shall be situate in The Municipality of Metropolitan Toronto.

Object

4.—(1) The object of the Corporation is to operate an exchange in Ontario for trading in commodities, options on commodities, commodity futures contracts and commodity futures options by the members of the Corporation and other persons authorized under subsection (2).

Trading by
non-members

(2) The board of directors may authorize persons other than members to trade on the exchange, subject to such terms and conditions as are imposed by the board of directors.

Compliance
with
R.S.O. 1980,
c. 78

(3) The Corporation shall operate the exchange in a manner that does not contravene the requirements of the *Commodity Futures Act*, the regulations made thereunder, and any decision of the Ontario Securities Commission made under that Act and regulations, and the Corporation may impose any additional or higher requirement within its jurisdiction.

5. The Corporation shall be carried on without the purpose of gain for its members and any profits or other accretions to the Corporation shall be used in promoting its object. Non-profit

6. The membership of the Corporation shall be composed of futures members, sponsor members and such other classes of membership as the by-laws provide. Membership

7.—(1) The affairs of the Corporation shall be managed by a board of directors, who may be referred to as governors, consisting of, Board of directors

- (a) the President of the Corporation;
- (b) two public directors or, where the by-laws so provide, up to four public directors; and
- (c) eight other directors elected by the members in accordance with this Act and the by-laws.

(2) Where a vacancy occurs on the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board of directors remains in office. Vacancies

8.—(1) The directors, except the President and the public directors, shall be elected by the members annually in such manner as the by-laws provide except that three directors shall be elected by the sponsor members and, subject to subsection (2), five directors shall be elected by the futures members of the Corporation. Election of directors

(2) Where the class of futures members includes a group of one or more futures members who are not members of The Toronto Stock Exchange or affiliates, associates or insiders of a member of The Toronto Stock Exchange, one of the five directors elected by futures members shall be elected by a majority of the votes cast by the futures members that form the group. Idem

(3) The public directors shall be elected annually by the board of directors at the first meeting of the board following the annual meeting of the Corporation, to hold office until the next annual meeting of the Corporation, and any vacancy occurring in the office of the public directors may be filled by the election of another person for the remainder of the term by the directors then in office. Election of public directors

(4) A person is not eligible to be a public director if the person is, Eligibility of public directors

- (a) a futures member of the Corporation;

- (b) an associate or insider of a futures member of the Corporation;
- (c) a member of The Toronto Stock Exchange; or
- (d) an associate or insider of a member of The Toronto Stock Exchange.

Idem

(5) No person shall be elected as a public director unless the person's nomination for election is approved by the Lieutenant Governor in Council on the recommendation of a nominating committee constituted in accordance with the by-laws and co-chaired by the President of the Corporation and the President of The Toronto Stock Exchange.

First board
of directors

(6) Notwithstanding subsection 7 (1) or subsections (1) to (5) of this section, the first board of directors shall consist of five persons appointed by the Lieutenant Governor in Council on the recommendation of the Board of Directors of The Toronto Stock Exchange who shall hold office until the board of directors is reconstituted in accordance with this Act.

First meeting

(7) The first board of directors shall call a meeting of the members within three months of the coming into force of this Act for the purpose of reconstituting the board of directors in accordance with this Act.

Election of
chairman,
vice-
chairman

9.—(1) The chairman and every vice-chairman of the board of directors shall be elected by the board of directors.

Appointment
of President

(2) The President of the Corporation shall be appointed by the board of directors and shall be a person nominated by the Board of Directors of The Toronto Stock Exchange.

Eligibility for
appointment

(3) A person is not eligible to be the President if the person is,

- (a) a futures member of the Corporation;
- (b) an associate or insider of a futures member of the Corporation;
- (c) a member of The Toronto Stock Exchange; or
- (d) an associate or insider of a member of The Toronto Stock Exchange.

Removal of
President

(4) The President may be removed from office by the board of directors upon a vote of two-thirds of the directors then in office.

(5) Each officer of the Corporation, except the chairman and any vice-chairman of the board of directors, the President, the secretary and the treasurer, shall be appointed by the President with the approval of the board of directors. Officers

(6) No officer of the Corporation, except the chairman and any vice-chairman of the board of directors, the President, the secretary and the treasurer, shall be a director or member of the Corporation. Idem

10. The President shall be the chief executive officer of the Corporation. Duty of President

11.—(1) For the purposes of the object of the Corporation, the board of directors has the power to govern and regulate, Power of board

- (a) the exchange;
- (b) the partnership and corporate arrangements of the members and other persons authorized to trade on the exchange, including requirements as to financial condition; and
- (c) the business conduct of members and other persons authorized to trade on the exchange and of their employees and agents and other persons associated with them in the conduct of business,

and, in the exercise of such powers and in addition to their power to pass by-laws under Part III of the *Corporations Act*, the board of directors may pass such by-laws and make such rules and regulations and issue such orders and directions pursuant to such by-laws as it considers necessary for the purpose, including the imposition of penalties and forfeitures for the breach of any such by-law, rule, regulation, direction or order. R.S.O. 1980, c. 95

(2) If the board of directors passes a by-law that provides for the making of an order restricting or suspending the privileges of any person or company of a class referred to in the by-law before a hearing of the matter is held, the by-law shall provide that any such restriction or suspension shall be imposed only where the board of directors considers it necessary for the protection of the public interest and that the restriction or suspension shall expire fifteen days after the date on which the order was made unless a hearing is held within that period of time to confirm or set aside the order. Immediate restriction or suspension

Delegation
of powers

(3) The board of directors may pass by-laws delegating to one or more persons or committees the power of the board of directors,

- (a) to consider, hold hearings and make determinations regarding applications for any acceptance, approval, registration or authorization and to impose terms and conditions on any such acceptance, approval, registration or authorization;
- (b) to investigate and examine the business conduct of members and other persons authorized to trade on the exchange and of their employees and agents and other persons associated with them in the conduct of business; and
- (c) to hold hearings, make determinations and impose suspensions or other discipline on members and persons referred to in clause (b) in matters related to business conduct,

subject to such limitations, restrictions, conditions and requirements as the board of directors may set out in the by-laws.

Meetings by
telephone,
etc.

12. A meeting of the board of directors or of any committee established by the board of directors may be held by means of telephone, electronic or other communication facilities if,

- (a) the telephone, electronic or other communication facilities permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously; and
- (b) all of the directors or committee members, as the case may be, participating in the meeting consent,

and a person participating in such a meeting by such means shall be deemed to be present at the meeting.

Power to
hold land

13. The Corporation may acquire by purchase, lease or otherwise, and may hold, for any period of time, any land or interest therein in The Municipality of Metropolitan Toronto whether or not such land or interest is necessary for its actual use or occupation or for carrying on its undertaking and may sell, charge, lease or otherwise deal with or dispose of such land or any interest therein.

Application
of
R.S.O. 1980,
c. 95

14. The *Corporations Act*, except sections 131, 275, 276 and 312, applies to the Corporation, except,

- (a) to the extent that the provisions thereof are inconsistent with this Act;
- (b) that a public director may not be removed from office under section 67 of that Act; and
- (c) that the by-laws of the Corporation may,
 - (i) fix the class or classes of persons who may be appointed by a proxy to attend and act at meetings as nominees of futures members provided that one such class shall be futures members,
 - (ii) provide for and regulate the admission of members, including the requiring of approval by the directors or members, or both, at meetings or individually, and the manner in which such approval is to be given, and
 - (iii) fix the quorum for meetings of the board at four or any larger number of directors as specified in the by-laws.

15. Nothing in this Act shall be construed to derogate from the powers of the Ontario Securities Commission under the *Commodity Futures Act* or any other Act.

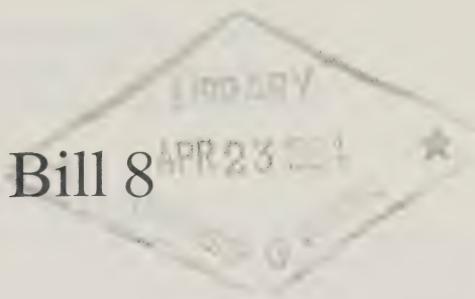
Powers of
Ontario
Securities
Commission
R.S.O. 1980,
c. 78

16. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

17. The short title of this Act is the *Toronto Futures Exchange Act, 1983*.

Short title



Bill 8

**An Act respecting the Succession to Estates of
Deceased Persons in Ontario who have
Beneficiaries residing in Designated Countries**

Mr. Breithaupt

1st Reading April 19th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to ensure that payments from the estates of persons domiciled in Ontario at the time of death are not made to foreign beneficiaries who are unlikely to receive for their whole benefit or use substantially the full value of any payments made under the estate and who reside in certain countries designated by regulation. The Bill provides for an application to be made to a court for an order permitting payments to a foreign beneficiary. The court may also order that no payment be made to a foreign beneficiary, in which case the court shall make an order disposing of the estate in accordance with the rules of succession contained in the *Succession Law Reform Act* with necessary modifications.

Bill 8

1983

An Act respecting the Succession to Estates of Deceased Persons in Ontario who have Beneficiaries residing in Designated Countries

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “court” means a surrogate court or the Supreme Court of Ontario;
- (b) “deceased person” means a person who was domiciled in Ontario at the time of death;
- (c) “foreign beneficiary” means a person who ordinarily resides in a country designated in the regulations;
- (d) “payment” includes a payment, transfer, disposition or distribution of property;
- (e) “personal representative” means an executor, an administrator or an administrator with will annexed;
- (f) “property” means real or personal property;
- (g) “will” includes,
 - (i) a testament,
 - (ii) a codicil,
 - (iii) an appointment by will or by writing in the nature of a will in exercise of a power, and
 - (iv) any other testamentary disposition.

2. Where a will directs that a payment be made to a foreign beneficiary and where that foreign beneficiary makes an

Application
by foreign
beneficiary

application to the court to vary the manner of payment, the court shall not give its consent to that application, unless the court is satisfied that,

- (a) the foreign beneficiary is likely to receive for his or her whole benefit or use or control substantially the full value of the payment being made to that person; and
- (b) in all the circumstances of the case the result would be just and equitable, having regard to the intentions of the deceased person, so far as ascertainable,

in which case the court may grant the application to vary the manner of payment or make such other order as it considers appropriate in the circumstances.

Application
by personal
representative
R.S.O. 1980,
c. 488

3.—(1) Where a foreign beneficiary is entitled under Part II of the *Succession Law Reform Act* to all or part of the property comprising the estate of a deceased person, the personal representative of the deceased person shall not make any payment to that person of all or any part of such property unless the personal representative makes application and obtains an order from the court permitting the payment to be made to that person.

Order by
court

(2) A court shall not make an order under subsection (1) unless the court is satisfied that,

- (a) the foreign beneficiary is entitled to property from the estate;
- (b) the foreign beneficiary is likely to receive for his or her whole benefit or use or control substantially the full value of the payment to be made to that person; and
- (c) in all the circumstances of the case, the result would be just and equitable having regard to the intentions of the deceased person, so far as ascertainable,

in which case the court may make such order and may direct the payment to be made to the foreign beneficiary in such manner as it considers appropriate under the circumstances.

Idem

(3) Where the court has decided that no order should be made under subsection (2) because,

- (a) the foreign beneficiary would be unlikely to receive for his or her whole benefit or use or control substan-

tially the full value of the payment to be made to that person; or

- (b) in all the circumstances of the case, the result would not be just or equitable having regard to the intentions of the deceased person, so far as ascertainable,

the court may make such order and may direct such payment to be made to the foreign beneficiary in such manner as it considers appropriate or the court may refuse to direct any payment to be made to the foreign beneficiary of the deceased person, in which case the court shall make an order disposing of the estate of the deceased person in accordance with the provisions for succession contained in the *Succession Law Reform Act* with necessary modifications.

R.S.O. 1980,
c. 488

4.—(1) Where a foreign beneficiary makes an application for an order under Part V of the *Succession Law Reform Act* for property from the estate of a deceased person, the court shall not make an order unless the court is satisfied that,

Application
under
Part V of
R.S.O. 1980,
c. 488

- (a) the foreign beneficiary is entitled to property from that estate;
- (b) the foreign beneficiary is likely to receive for his or her whole benefit or use or control substantially the full value of the payment to be made to that person; and
- (c) in all the circumstances of the case, the result would be just and equitable having regard to the intentions of the deceased person, so far as ascertainable,

in which case the court may make such order and direct the payment to be made to the foreign beneficiary in such manner as it considers appropriate under the circumstances.

(2) Where the court has decided that no order should be made under subsection (1) because, Idem

- (a) the foreign beneficiary would be unlikely to receive for his or her whole benefit or use or control substantially the full value of the payment to be made to that person; or
- (b) in all the circumstances of the case, the result would not be just or equitable having regard to the intentions of the deceased person, so far as ascertainable,

R.S.O. 1980,
c. 488

the court may make such order and may direct such payment to be made to the foreign beneficiary in such manner as it considers appropriate or the court may refuse to direct any payment to be made to the foreign beneficiary of the deceased person, in which case the court shall make an order disposing of the estate of the deceased person in accordance with the provisions for succession contained in the *Succession Law Reform Act* with necessary modifications.

Consider-
ations on
application

5. Upon the hearing of an application under section 3 or 4, the court shall inquire into and consider all the circumstances of the application, including,

- (a) the proximity and duration of the foreign beneficiary's relationship with the deceased person;
- (b) where the foreign beneficiary is the spouse of the deceased person, a course of conduct by the spouse during the life-time of the deceased person that is an obvious and gross repudiation of the relationship;
- (c) the circumstances of the deceased person at the time of death;
- (d) any agreement between the deceased person and the foreign beneficiary; and
- (e) any previous distribution or division of property made by the deceased person in favour of the foreign beneficiary by gift or agreement or under court order.

Evidence

6.—(1) Upon the hearing of an application under section 2, 3 or 4, the court,

- (a) in addition to the evidence adduced by the parties appearing, may direct such other evidence to be given as the court considers necessary or proper; and
- (b) may accept such evidence as the court considers proper of the deceased person's intentions, so far as ascertainable, including any statement in writing signed by the deceased person.

Idem

(2) In estimating the weight to be given to a statement referred to in clause (1) (b), the court shall have regard to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement.

7. Every person who contravenes subsection 3 (1) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000. Penalty

8. The Lieutenant Governor in Council may make regulations designating countries for the purpose of this Act. Regulations

9. This Act does not apply in respect of the estates of persons who died before this Act came into force. Application of Act

10. This Act comes into force on the day it receives Royal Assent. Commencement

11. The short title of this Act is the *Succession Law Act*, 1983. Short title

Bill 9



An Act to amend the Election Act

Mr. Breithaupt

1st Reading April 19th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill amends the *Election Act* for several purposes. The principal changes to the Act include the following:

1. The "British subject" basis for qualification as a voter or candidate in an election is removed so that all voters and candidates must now be Canadian citizens.
2. The Chief Election Officer is given authority to set standards for convenient access to polling places by persons who are physically handicapped.
3. The Bill provides that so far as is reasonably possible all polling stations should be and all advance polls must be accessible to persons who are physically handicapped.
4. Persons who are physically handicapped are permitted to name voting proxies up to and including the day of the election.
5. The political affiliation of candidates will be shown on the ballot.
6. Campaign material is prohibited from being brought into or placed near a polling place on election day.
7. The procedure for establishing the qualifications of a voter whose name has been omitted in error from the polling list is extended to all polling subdivisions rather than simply "rural" subdivisions.
8. The restriction that limits a person to assisting only one blind person in voting is removed.

Bill 9

1983

An Act to amend the Election Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Election Act*, being chapter 133 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

s. 1,
amended

(ga) “International Symbol of Access” means the symbol that is described and illustrated in the Schedule to this Act.

2. Subsection 3 (6) of the said Act is repealed and the following substituted therefor:

s. 3 (6),
re-enacted

(6) The Chief Election Officer may make regulations,

Regulations

(a) prescribing the forms for use under this Act;

(b) prescribing standards for convenient access to polling stations by persons who are physically handicapped.

3. Clause 10 (1) (b) of the said Act is amended by striking out “or other British subject”.

s. 10 (1) (b),
amended

4.—(1) Clause 38 (1) (c) of the said Act is repealed and the following substituted therefor:

s. 38 (1) (c),
re-enacted

(c) a person who is physically incapable of attending a polling place; or

.

(2) Section 38 of the said Act is amended by adding thereto the following subsection:

s. 38,
amended

(5a) Notwithstanding anything in this section, a person who is physically incapable of attending a polling place may appoint in writing a proxy up to and including polling day, and where

Proxies by
physically
handicapped
persons

the proxy makes a statement on oath before the returning officer or deputy returning officer that the person appointing the proxy is physically incapable of attending a polling place and that the proxy is qualified to act for the person making the appointment, the returning officer or deputy returning officer shall give a certificate across the face of the appointment of the voting proxy to that effect.

s. 38 (7),
re-enacted

(3) Subsection 38 (7) of the said Act is repealed and the following substituted therefor:

Oath on
voting

(7) A ballot shall not be delivered to a person who claims to vote as a voting proxy unless he produces his appointment as a voting proxy with the certificate thereon as provided in subsections (5) and (5a) at the time of voting and takes the prescribed oath.

s. 39 (b),
amended

5. Clause 39 (b) of the said Act is amended by striking out “or other British subject”.

s. 54 (3),
re-enacted

6. Subsection 54 (3) of the said Act is repealed and the following substituted therefor:

Form of
ballot

(3) The ballot shall contain the names of the candidates and their political party affiliations and the names of the candidates shall be arranged on the ballot alphabetically by surname with the surname in bold type, with given names preceding the surnames and with consecutive numbers preceding each candidate's name, and the party affiliation of each candidate shall be indicated below the candidate's name.

s. 56 (3),
re-enacted

7. Subsection 56 (3) of the said Act is repealed and the following substituted therefor:

Location of
polling places

(3) A polling place may be situated in a schoolhouse, hall or other public building or on private property and, so far as is reasonably possible, shall conform to the standards for convenient access to polling places by persons who are physically handicapped prescribed by the Chief Election Officer and those polling places that conform to the standards shall be signified by the International Symbol of Access marked clearly on a sign that is posted in a conspicuous location near the polling place.

List of
polling places

(3a) Upon the request of any voter, the returning officer shall provide to the voter a list of the polling places in the electoral district in which the voter is entitled to vote and all the polling places that conform to the standards for convenient access prescribed by the Chief Election Officer shall be designated on the list with the International Symbol of Access.

8. Subsection 57 (1) of the said Act is amended by striking out “or infirm” in the eighth line and inserting in lieu thereof “infirm or physically handicapped”.

s. 57 (1),
amended

9. The said Act is amended by adding thereto the following section:

s. 62a,
enacted

62a. A person who is physically handicapped may vote at any polling place that is designated with or signified by the International Symbol of Access so long as that polling place is within the electoral district in which his name appears on a polling list, and, where the name of the person does not appear on the polling list for the polling place at which he votes, the deputy returning officer or poll clerk shall forthwith notify the deputy returning officer or poll clerk of the polling place at which he is entitled to vote that the person has voted.

Handi-
capped
person
voting at
designated
polling place

10. The said Act is further amended by adding thereto the following section:

s. 72a,
enacted

72a. No person shall bring into or place near a polling place any campaign material displaying the name of a candidate or otherwise designed to promote the election of a particular candidate and every person permitted to remain in the polling place during the time the poll remains open shall remove and destroy any such material brought into or placed near the polling place that comes to his attention.

Campaign
material
prohibition

11. Subsection 73 (4) of the said Act is repealed and the following substituted therefor:

s. 73 (4),
re-enacted

(4) The returning officer, in fixing the location of the polling places, shall select public places or premises that conform to the standards for convenient access to polling places by persons who are physically handicapped prescribed by the Chief Election Officer and such polling places shall be signified by the International Symbol of Access marked clearly on a sign that is posted in a conspicuous location near the polling place.

Accessi-
bility to
polling places

12. Subsection 81 (1) of the said Act is amended by striking out “In polling subdivisions declared to be rural polling subdivisions by the Chief Election Officer” in the first and second lines.

s. 81 (1),
amended

13.—(1) Subsection 87 (1) of the said Act is repealed and the following substituted therefor:

s. 87 (1),
re-enacted

(1) On the application of any voter who by reason of inability to read, blindness or physical handicap is unable to vote in accordance with the other provisions of this Act, the deputy

Voters
requiring
assistance

returning officer shall require the voter making the application to take an oath of his need for assistance in order to vote and shall thereafter assist the voter by marking his ballot in the manner directed by the voter in the presence of the poll clerk and of no other person, and place the ballot in the ballot box.

s. 87 (4),
repealed

(2) Subsection 87 (4) of the said Act is repealed.

Schedule,
enacted

14. The said Act is further amended by adding thereto the following Schedule:

SCHEDULE

1. Description

The symbol of access is composed of two elements—the wheelchair figure and either a square background or square border. The correct colour for the symbol of access is a dark blue or black. This blue or black should be the background colour for a white wheelchair figure when used without a border, or as the colour for the border and wheelchair figure on a white background.

2. Illustration



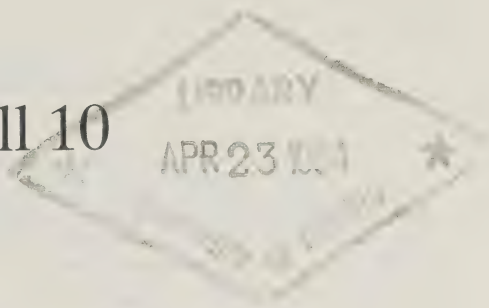
Commence-
ment

15. This Act comes into force on the day it receives Royal Assent.

Short title

16. The short title of this Act is the *Election Amendment Act, 1983*.

Bill 10



**An Act to amend
the Legislative Assembly Act**

Mr. Breithaupt

1st Reading April 19th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide for the appointment of a Curator of Queen's Park. The Curator of Queen's Park will be responsible for advising the Speaker of the Legislative Assembly and the Lieutenant Governor in Council concerning the conservation, protection and preservation of the heritage of Queen's Park.

Bill 10

1983

**An Act to amend
the Legislative Assembly Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 75a,
enacted

75a.—(1) A Curator of Queen's Park shall be appointed by the Lieutenant Governor in Council upon such terms and conditions as the Speaker may recommend. Curator of
Queen's Park

(2) The Curator of Queen's Park shall hold office during good behaviour but shall be removable from office for cause by the Lieutenant Governor in Council on address of the Assembly. Tenure of
office

(3) The Curator of Queen's Park shall, Duties of
Curator

- (a) compile and maintain an inventory of all structures, objects and locations at Queen's Park that have historical, architectural or aesthetic significance;
- (b) advise and make recommendations to the Speaker and to the Lieutenant Governor in Council on any matter relating to the conservation, protection and preservation of the heritage of Queen's Park including any renovation, restoration or alteration to a structure, object or location listed in the inventory that the Curator considers advisable.

(4) Such parts of the area of land within the area bounded by Queen's Park Crescent as may be designated by the Lieutenant Governor in Council shall constitute Queen's Park for determining the duties of the Curator of Queen's Park and the order in council shall be laid before the Assembly. Queen's Park

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Legislative Assembly Amendment Act, 1983*.

Bill 11



An Act to amend the Landlord and Tenant Act

Mr. Philip

1st Reading April 19th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill is intended to prevent the circumvention of municipal condominium conversion by-laws and section 60 of the *Condominium Act*, by making it clear that, despite the recent unreported decision of the Divisional Court in *Medeiros v. Fraleigh*, the owner of a percentage interest or a share in an apartment building cannot evict a tenant under section 105 or clause 107 (1) (b) of the *Landlord and Tenant Act*.

Bill 11

1983

An Act to amend the Landlord and Tenant Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 107 of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection: s. 107,
amended

(7) A judge hearing an application under section 113 brought by a landlord under subsection (4) shall not direct the issue of a writ of possession where, Where writ
to be refused

(a) the notice of termination was given under clause (1)(b); and

(b) the landlord's claim is based on a tenancy agreement or occupancy agreement that purports to entitle the landlord to reside in the residential premises.

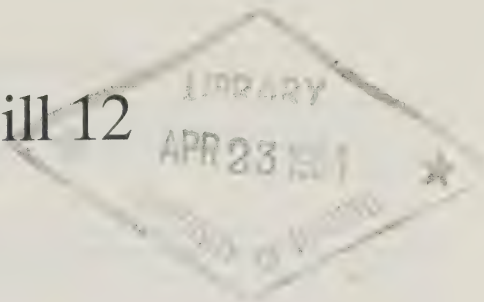
2. Section 110 of the said Act is amended by adding thereto the following subsection: s. 110,
amended

(4) A judge hearing an application under section 113 brought by a landlord under subsection (1) shall not direct the issue of a writ of possession under clause (3) (a) where the landlord's claim is based on a tenancy agreement or occupancy agreement that purports to entitle the landlord to reside in the residential premises. Where writ
to be refused

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Landlord and Tenant Amendment Act, 1983*. Short title

Bill 12



An Act to amend the Labour Relations Act

Mr. Mackenzie

1st Reading April 19th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill would make hiring or acting as a professional strikebreaker an offence, prevent the hiring of persons to replace employees who are on strike or locked out, except by agreement with the affected bargaining unit, and control access to work premises that are affected by a strike or lock-out.

Transport, removal and handling of the employer's product would be prohibited during a strike or lock-out, except by agreement with the affected bargaining unit or by order of the Ontario Labour Relations Board. A designated representative of the bargaining unit would be entitled to inspect the employer's work premises, and the Board would be empowered to make and enforce directions concerning contraventions of the prohibitions contained in the Bill.

Bill 12

1983

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections:

ss. 66a, 66b,
enacted

66a.—(1) In this section,

Interpre-
tation

- (a) “employer” includes an employers’ organization and a person acting on behalf of an employer or an employers’ organization;
- (b) “product” means goods that,
 - (i) were produced or processed or were the subject of work, or
 - (ii) would, but for a lock-out or lawful strike, have been produced or processed or have been the subject of work,
 by employees who are exercising a lawful right to strike or who have been locked out, and includes anything used in the manufacture, processing or distribution of a product;
- (c) “professional strikebreaker” means a person who acts for an employer to,
 - (i) discredit or intimidate employees who are exercising a legal right to strike or who are locked out,
 - (ii) prevent, interfere with or break up a lawful strike,
 - (iii) prolong a lock-out or lawful strike,

(iv) assist persons in obtaining access to work premises or performing work in contravention of subsection (4), or

(v) transport, remove or handle, or assist persons to transport, remove or handle, a product in contravention of subsection (5).

Professional
strike-
breaker:
offence

(2) No employer shall employ or use the services of a professional strikebreaker and no person shall offer his services or act as a professional strikebreaker.

Unlawful
employment

(3) Notwithstanding section 73, no employer shall employ or use the services of any person to perform the work of an employee who is exercising a legal right to strike or who is locked out unless the person is authorized to perform the work by an agreement between the employer and a designated representative of the bargaining unit that is on strike or locked out.

Unlawful
entry, etc.

(4) During a lock-out or a lawful strike, no person shall enter the work premises of the employer or perform work there or elsewhere on behalf of the employer unless,

- (a) the person is authorized to perform work under subsection (3);
- (b) the person is not engaged in performing the work of an employee who is on strike or locked out; or
- (c) the person requires access to the work premises or is required to perform work for the purpose of providing emergency services.

Unlawful
handling, etc.

(5) During a lock-out or a lawful strike, no person shall transport or remove from the premises of an employer or handle on the premises of the employer any product unless the transport, removal or handling is authorized by,

- (a) an agreement between the employer and the designated representative of the bargaining unit that is on strike or locked out; or
- (b) an order of the Board under subsection (6).

Order of
Board

(6) The Board may, on an employer's application, where the Board is satisfied that an emergency exists, make an order permitting the transport, removal or handling of a product under subsection (5), subject to any terms and conditions the Board considers appropriate.

(7) The Board shall hold a hearing within two days of the filing of an application under subsection (6). Hearing within two days

(8) Notwithstanding subsection (5), during a lock-out or lawful strike no person shall transport or remove from the premises of an employer or handle on the premises of the employer any product unless, Notice and inspection

(a) reasonable notice of the transport, removal or handling has been given to a designated representative of the bargaining unit that is on strike or locked out; and

(b) the designated representative has had an opportunity to inspect the product.

(9) During a lock-out or lawful strike, a designated representative of the bargaining unit that is on strike or locked out is entitled, on reasonable notice, to enter the work premises of the employer to inspect them and no person shall prohibit or interfere with the representative's inspection. Right to inspect premises

66b.—(1) Where, on the complaint of a trade union or council or trade unions, the Board is satisfied that any person has contravened or attempted to contravene subsections 66a (2), (3), (4), (5), (8) or (9), the Board may direct what action, if any, a person, employee, employer, employers' organization, and their officers, officials or agents shall do or refrain from doing with respect to any contravention of those subsections. Direction by Board re strike-breaking

(2) The Board shall hold a hearing within two days of the making of a complaint under subsection (1). Hearing within two days

(3) The Board shall file in the office of the registrar of the Supreme Court a copy of a direction made under subsection (1), exclusive of the reasons therefor, in the prescribed form, whereupon the direction shall be entered in the same way as a judgment or order of that court and is enforceable as such. Enforcement of direction by S.C.O.

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is the *Labour Relations Amendment Act, 1983*. Short title

Bill 13

**An Act to amend the
Vital Statistics Act**

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations

1st Reading April 21st, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. Subsection 27 (2) currently reads as follows:

(2) If the marriage dissolved or annulled by the decree was solemnized in Ontario and registered with the Registrar General, the Registrar General, upon receipt of the statement of the divorce, shall register the statement.

SECTION 2. Currently, to obtain a change of the sex designation shown on the register of birth, the applicant must provide, among other things, a certificate from a doctor practising in Ontario. This provision is being broadened to permit a certificate from a doctor practising in Canada.

SECTION 3. Subsection 39 (1) of the Act sets out the information that is to be shown on a birth certificate and provides that only the specified information shall be shown. The amendment would have the effect of permitting additional information to be shown.

Bill 13

1983

**An Act to amend the
Vital Statistics Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 27 (2) of the *Vital Statistics Act*, being chapter 524 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

s. 27 (2),
re-enacted

(2) The Registrar General, upon receiving a statement of divorce under subsection (1), shall register it.

Registration
of statement

2.—(1) Clause 32 (2) (b) of the said Act is amended by striking out “Ontario” in the third line and inserting in lieu thereof “Canada”.

s. 32 (2) (b),
amended

(2) Subsection 32 (3) of the said Act is amended by inserting after “(a)” in the second line “or (b)”.

s. 32 (3),
amended

3. Subsection 39 (1) of the said Act is amended by striking out “only” in the first line.

s. 39 (1),
amended

4. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

5. The short title of this Act is the *Vital Statistics Amendment Act, 1983*.

Short title

Bill 13

*(Chapter 34
Statutes of Ontario, 1983)*

An Act to amend the Vital Statistics Act

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations

<i>1st Reading</i>	April 21st, 1983
<i>2nd Reading</i>	June 7th, 1983
<i>3rd Reading</i>	June 9th, 1983
<i>Royal Assent</i>	June 9th, 1983

Bill 13

1983

**An Act to amend the
Vital Statistics Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 27 (2) of the *Vital Statistics Act*, being chapter 524 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

s. 27 (2),
re-enacted

(2) The Registrar General, upon receiving a statement of divorce under subsection (1), shall register it.

Registration
of statement

2.—(1) Clause 32 (2) (b) of the said Act is amended by striking out “Ontario” in the third line and inserting in lieu thereof “Canada”.

s. 32 (2) (b),
amended

(2) Subsection 32 (3) of the said Act is amended by inserting after “(a)” in the second line “or (b)”.

s. 32 (3),
amended

3. Subsection 39 (1) of the said Act is amended by striking out “only” in the first line.

s. 39 (1),
amended

4. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

5. The short title of this Act is the *Vital Statistics Amendment Act, 1983*.

Short title

Bill 14



An Act to amend the Land Transfer Tax Act

The Hon. G. L. Ashe

Minister of Revenue

1st Reading April 21st, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

GENERAL. The Bill deems a taxable disposition of land to occur where a corporation or trust which owns agricultural land in Ontario becomes a non-resident. A non-resident is thereby prevented from avoiding the 20 per cent tax imposed on conveyances of land by purchasing shares in a company owning Ontario agricultural land.

In addition, the Bill proposes amendments to clarify the administration of the Act, by,

- (a) providing a mechanism through which a taxpayer may appeal the disallowance by the Minister of a claim for refund;
- (b) allowing non-resident purchasers to pay the lower rate of tax on acquisitions of land in Ontario for certain specified purposes;
- (c) providing for a single consolidated affidavit as to both the value of the consideration and the residence of the transferee; and
- (d) providing for the determination in certain circumstances of the value of the consideration for the conveyance of land on which tax is exigible.

SECTION 1. Subsection (1) of this section provides for the definition of the word "associate" to indicate the relationship between a company and another company or person that holds its shares, between partners, between a trust and its trustees and beneficiaries, and between certain relatives.

Subsection (2) extends the definition of "convey" to include the registration of an instrument containing a recital or reference to an unregistered instrument by which land is conveyed. The change relates to the changes contained in subsections (3), (6), (9), (10) and (13) and subsection 5 (1). Clause 1 (1) (b) of the Act now reads as follows:

- (b) *"convey" includes the granting, assigning, releasing, surrendering, leasing or disposing of land in Ontario, agreeing to sell land in Ontario, or the giving of an option upon or with respect to any land in Ontario, whether the effect of any of the foregoing is to bring into existence an interest of any kind in land or is only for the purpose of giving effect to or formal recognition to any interest of whatsoever kind that theretofore existed in land, but "convey" does not include any transfer of land for the purpose only of securing a debt or loan, or any transfer by a creditor for the purpose only of returning land that had been used as security for a debt or loan.*

Subsection (3) extends the definition of "conveyance" to include a recital or reference in any registered instrument to an unregistered instrument by which land is conveyed. The change relates to the changes contained in subsections (2), (6), (9), (10) and (13) and subsection 5 (1). Clause 1 (1) (c) of the Act now reads as follows:

- (c) *"conveyance" includes any instrument or writing by which land is conveyed and includes a final order of foreclosure under any mortgage or charge affecting land and a notice or caution in writing signifying the existence of any instrument or writing by which land is conveyed.*

Subsection (4) extends the definition of "non-resident corporation" to include a corporation which has allotted shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable to a non-resident and his non-resident associates. Subclause 1 (1) (f) (ii) of the Act now reads as follows:

- (f) *"non-resident corporation" means a corporation incorporated, formed or otherwise organized in Canada or elsewhere,*

- (ii) *that has allotted and issued shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are owned by any one non-resident person, but this subclause does not apply where it is established to the satisfaction of the Minister*

that such non-resident person does not in fact directly or indirectly exercise control over the corporation and that subclause (v) does not apply to the corporation.

Subsection (5) further extends the definition of “non-resident corporation” by including any corporation,

- (a) one-quarter of the paid-up capital of which is held by a non-resident and his non-resident associates;
- (b) one-half of the paid-up capital of which is held by non-residents;
- (c) one-quarter of the surplus of which would be distributed to a non-resident and his non-resident associates in the event of a dissolution or winding-up; or
- (d) one-half of the surplus of which would be distributed to non-residents in a dissolution or winding-up.

Subsection (6) defines “spouse” by reference to the meaning of that term in the *Family Law Reform Act*. The definition of “notice of any kind” relates to subsections (2), (3), (9), (10) and (13) and subsection 5 (1).

Subsection (7) defines “tax” to include penalties and interest added to the tax. Clause 1 (1) (k) of the Act now reads as follows:

(k) “tax” means the tax imposed by this Act.

Subsection (8) provides a means to establish the value of the consideration for a conveyance upon which tax is based in the circumstances of a mortgage foreclosure. Sub-subclause 1 (1) (p) (ii) (A) of the Act now reads as follows:

(p) “value of the consideration” includes,

(ii) in the case of a final order of foreclosure under any mortgage or charge affecting land, the lesser of,

(A) the amount owed under the mortgage or charge at the time it was foreclosed, including principal, interest and all other costs and expenses, other than municipal taxes, secured by the mortgage or charge and owing at that time, or

Subsection (9) extends the situations in which the valuation method for leasehold interests conveyed can be used to include situations where a recital or reference in a registered instrument refers to an unregistered lease. This change relates to subsections (2), (3), (6), (10) and (13) and subsection 5 (1). Subclause 1 (1) (p) (iii) of the Act now reads as follows:

(iii) in the case where a lease of land, a transfer of the interest of a lessee under a lease of land, or a notice in writing signifying the existence of a lease of land or of a transfer of the interest of a lessee under a lease of land is not exempt from tax by virtue of subsection (4), the fair market value, ascertained as at the time of the tender for registration, of the land to which the lease extends or of a smaller portion of such land if only such smaller portion is conveyed.

Subsection (10) amends the definition of “value of the consideration” to include a method of valuation where the conveyance is a recital or reference in a registered instrument to a conveyance in an unregistered instrument. This change relates to subsections (2), (3), (6), (9) and (13) and subsection 5 (1). Subclause 1 (1) (p) (iv) of the Act now reads as follows:

- (iv) *in the case of a notice or caution in writing signifying the existence of any instrument or writing by which land is conveyed and that is not a notice in writing described in subclause (iii) the value of the consideration, determined under subclause (i) or (ii) for the land conveyed by the instrument or writing that is referred to in such notice or caution in writing that is not a notice in writing described in subclause (iii), or*

Subsection (11) provides a means to establish the value of the consideration for a conveyance on which tax is based where a person conveys land to a corporation in return for shares of the corporation or where a corporation distributes land as a dividend in specie and where a trustee conveys land to another trustee subsequent to a transfer for valuable consideration of the beneficial interest in the land.

Subsection (12) provides that where a person has a contractual right either immediately or at a future time to acquire shares, that person will be deemed to own the shares and provides for the deemed issue and paid-up value of the shares. In addition, the subsection provides that where a share is owned jointly by several persons, one of whom is a non-resident, the share shall be considered to be owned by a non-resident.

Subsection (13) relates to subsections (2), (3), (6), (9) and (10) and subsection 5 (1).

Subsection (14) provides that farming will not be considered to be a commercial or industrial business for the purposes of the Act.

SECTION 2. This section provides that where as a result of a disposition of agricultural land, a corporation or trust becomes a non-resident, that corporation or trust shall pay a tax of 20 per cent of the fair value of the land so disposed of. Dispositions include,

- (a) the transfer of any beneficial interest in shares of a corporation, one of the assets of which is agricultural land;
- (b) the amalgamation of two or more corporations, one of the assets of any one or more of which is agricultural land; or
- (c) the transfer of a beneficial interest in agricultural land,

but no disposition occurs on a transfer that results from the death of the owner of the interest transferred and that is not provided for by an enforceable agreement.

SECTION 3. This section provides for a single affidavit to consolidate and replace the affidavit as to consideration and the affidavit as to residence, and repeals certain subsections rendered obsolete by the consolidation. The section also provides for returns and remittances of tax on dispositions of agricultural land.

Subsection (1) provides that the affidavit required under the Act will include a reference to the residency status of the transferee. Subsection 4 (1) of the Act now reads as follows:

(1) There shall be filed with the collector and attached by him to the conveyance to which it relates an affidavit in the prescribed form setting out the true value of the consideration for the conveyance, the true amount in cash and the value of any property or security included in the value of the consideration, the amount or value of any lien or encumbrance subject to which the conveyance was made, and such other information as the Minister may prescribe to be disclosed in the affidavit.

Subsection (2) repeals subsection 4 (2) of the Act which now reads as follows:

(2) The affidavit required by subsection (1) shall be made by the persons who are required to make the affidavit required by subsection (3), and notwithstanding subsection (3), the Minister may prescribe a form in which the affidavits required by subsection (1) or (3) are combined as one affidavit for the purposes of those subsections.

Subsection (3) provides that the affidavit must be made by the persons listed in clauses (a) to (g). Subsection 4 (3) of the Act now reads as follows:

(3) In addition to the affidavit required by subsection (1), there shall be filed with the collector and attached by him to the conveyance to which it relates an affidavit in such form as is prescribed, and the affidavit shall be made by,

- (a) each transferee to whom or in trust for whom any land is conveyed by the conveyance to which the affidavit relates;*
- (b) each trustee to whom any land is conveyed and who is shown as a trustee in the conveyance to which the affidavit relates;*
- (c) each transferee named in the conveyance to which the affidavit relates;*
- (d) an agent of any person referred to in clause (a), (b) or (c), if the agent is authorized in writing to make the affidavit;*
- (e) the solicitor acting in the transaction as the solicitor for any person referred to in clause (a), (b) or (c);*
- (f) the presiding officer authorized to act for a corporation that is a person referred to in clause (a), (b) or (c), or the Vice-President, Manager, Secretary, Director or Treasurer authorized to act for such corporation; or*
- (g) either of two transferees who are married to each other and both of whom are transferees referred to in clause (a), (b) or (c), where the transferee making the affidavit is acting on behalf of the other of such transferees,*

and such affidavit shall state whether the transferee to whom the land is being conveyed is a non-resident person or the trustee for a non-resident person, and shall state such other information as is required in order to complete the affidavit.

Subsection (4) amends the reference in subsection 4 (4) of the Act to refer to the consolidated affidavit. Subsection 4 (4) of the Act now reads as follows:

(4) The affidavit required by subsection (1) or (3) shall state that the person making it has personal knowledge of the facts stated in it, and shall state, where applicable, the capacity in which such person is making the affidavit and the name of any transferee on whose behalf such person is making the affidavit.

Subsection (5) repeals subsection 4 (6) of the Act which now reads as follows:

(6) Except as provided in subsection (7) or (8), where a conveyance is tendered for registration without the affidavit required by subsection (3), tax is payable at the rate provided in subsection 2 (2), and the collector shall not register the conveyance until such tax is paid, but if it is subsequently established to the satisfaction of the Minister that, had the affidavit required by subsection (3) been furnished to the collector, tax would have been payable as provided in subsection 2 (1), the Minister may refund the amount paid under this subsection in excess of the tax provided for in subsection 2 (1).

Subsection (6) provides that the consolidated affidavit is required on all conveyances except conveyances to the Crown. Subsection 4 (7) of the Act now reads as follows:

(7) Notwithstanding subsection (3), no affidavit is required under that subsection on the tender for registration of a conveyance to or in trust for a transferee who is expressly named in the conveyance and who is Her Majesty in right of Ontario, Her Majesty in right of Canada, a Crown agency within the meaning of the Crown Agency Act, the corporation of a municipality, including a district, metropolitan or regional municipality, in Ontario, a local board, as defined in the Municipal Affairs Act, of any such municipality in Ontario or Ontario Hydro or any corporation prescribed by the Minister by regulation or any individual acting in an official

capacity prescribed by the Minister by regulation, but the Minister may make regulations under this subsection only if he is satisfied that the corporation or the official capacity of the individual is such that the corporation or the individual acting in his official capacity is not, and is not likely to become, a non-resident person.

Subsection (7) provides for returns and remittances of tax with respect to dispositions of agricultural land to non-resident persons, including the time for filing returns and making remittances, a provision for the extension of that time and penalties for default in filing. The subsection also authorizes a trustee to realize on trust property in order to obtain funds to pay the tax. The trustee is not personally liable for the tax but where he disposes of trust property to beneficiaries without first accounting for tax he is guilty of an offence.

SECTION 4. This section provides that it is an offence to make, or participate in the making of, false or misleading statements in a return. Section 5 of the Act which provided for the payment of tax under protest is repealed; it now reads as follows:

5.—(1) Where the right of the collector to require payment of the tax is disputed by the person tendering a conveyance for registration, the tax may be paid under protest and the collector shall give a receipt in writing signed by him for the amount paid and stating that it was paid under protest, and he shall thereupon refer the matter for the decision of the Minister or of such official as the Minister appoints, who may order the refund of the tax or any part thereof to the person who paid it.

(2) In any dispute over the liability to tax of any person, the Minister may, after the tax has been paid, and if the dispute involves the interpretation of a provision of this Act, or involves an issue of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to the Supreme Court to have the issue in dispute determined, and if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined.

SECTION 5. This section provides for the delivery by the Minister of a statement of disallowance to anyone whose claim for refund is refused. The section also changes the reference to a "notice or caution" and in this respect relates to subsections 1 (2), (3), (6), (9), (10) and (13). Subsection 7 (3) of the Act now reads as follows:

(3) Where a conveyance is registered that is a notice or caution in writing signifying the existence of any instrument or writing by which land is conveyed, and the instrument or writing described in the notice or caution evidences an agreement to transfer or extinguish an interest in land, the Treasurer shall, where the Minister is satisfied that the transfer or extinguishment contemplated in the agreement has not taken place, refund any tax paid on the tender for registration of the conveyance.

SECTION 6. This section provides that the review process related to a notice of objection will be available to a taxpayer to whom a statement of disallowance has been issued. Subsections 11 (1) and (3) of the Act now read as follows:

(1) Where a person objects to an assessment made under section 10 he may, within ninety days after the day of mailing or delivery by personal service of the notice of assessment, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

(3) Upon receipt of a notice of objection, the Minister shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or reassess, and he shall thereupon notify the person who has made the objection of his action by registered mail.

SECTION 7. This section provides that an appeal to the Supreme Court of Ontario is available to a taxpayer to whom a statement of disallowance has been issued. Subsections 12 (1) and (7) of the Act now read as follows:

(1) After the Minister has given the notification required by subsection 11 (3), a person who has served notice of objection under section 11 may appeal to the Supreme Court to have the assessment vacated or varied or reassessed, but no appeal under this section shall be instituted after the expiration of ninety days from the day on which notice has been mailed to such person under subsection 11 (3).

(7) The court may dispose of an appeal by allowing it, by dismissing it, or by allowing it in part and directing the Minister to vacate the assessment, vary the assessment or reconsider the assessment and reassess as indicated by the judgment of the court.

SECTION 8. Subsection (1) recognizes the change to the definition of "tax" in subsection 1 (7). Clause 13 (1) (b) of the Act now reads as follows:

(1) Upon default of payment of an amount assessed under section 10,

(b) the Minister may issue a warrant directed to the sheriff of any county or district in which any property of a person assessed for tax under this Act is located or situate for the amount of the tax, interest and penalty or any of them owing by him, together with interest thereon from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court on a judgment in favour of the Crown.

Subsection (2) provides that taxes are a first lien and charge upon the interest in real property of the person liable to pay those taxes, where the lien or charge is registered in the proper land registry office. Where the person interested in the real property is not the registered owner, the notice of first lien and charge shall recite his interest and a copy shall be delivered to the registered owner.

SECTION 9. This section provides for the removal of distinctions drawn between payments on account of penalties, accrued interest and unpaid taxes. Rates of interest will be prescribed by the Lieutenant Governor in Council. Section 15 of the Act now reads as follows:

15.—(1) Where the tax imposed by this Act is not paid at the time provided for, interest on the unpaid tax shall be paid to the Treasurer at the rate of 15 per cent per annum or at such other rate as may be prescribed by the Lieutenant Governor in Council by regulation but no interest is payable for any period of time prior to the 10th day of April, 1974.

(2) Any payment received by the Treasurer or a collector on account of any tax under this Act shall first be applied to any interest payable on the tax with respect to which the payment is made, but this subsection does not apply to payments on account of any fine or penalty payable under this Act.

SECTION 10. This section repeals and replaces section 16 of the Act and provides for tax at the lower rate prescribed under subsection 2 (1) of the Act to be exigible on acquisitions of land by non-resident persons when certain conditions are met.

Subsection (1) allows a non-resident person to obtain a deferral of a portion of the tax when,

- (a) the land is being acquired for development and resale;
- (b) the land is being acquired for use by the developer for residential, commercial or industrial purposes;
- (c) the land is being acquired by a non-resident person who intends to reside in Canada; or

- (d) the land is acquired as the result of a foreclosure under a mortgage or charge and the non-resident person intends to resell the land.

Subsection (2) provides for rebate and deferral of a portion of the tax paid by a non-resident person who intends to use land for the purposes set out in subsection (1).

Subsection (3) establishes a time limit during which a non-resident person may apply for the tax rebate and deferral set out in subsection (2).

Subsection (4) provides for the cancellation of the tax liability of a non-resident person for a portion of the tax when he has complied with his obligations under subsection (1) or (2).

Subsection (5) provides that a non-resident person will become liable for tax at full non-resident rates if he fails to comply with his obligations under subsection (1) or (2) within the time limits set out in those subsections.

Subsection (6) permits the Minister to grant a one-year extension to the time limit during which the non-resident person must comply with his obligations under subsection (1) or (2).

Subsection (7) permits the Minister to publish in *The Ontario Gazette* the details of tax deferrals granted and the extension of tax deferrals under this section.

Subsection (8) permits a non-resident person who is a Canadian to make application to pay a lower rate of tax when he acquires land to be used by himself or his family as a principal residence or as a principal recreational property, and permits a non-resident person who is not a Canadian citizen to apply to the Minister to pay a lower rate of tax on land acquired to be used by his employees and their families as their residences.

Subsections 16 (1), (2), (3) and (4) now read as follows:

(1) Where tax has been paid or may be payable on the registration of a conveyance of land to a non-resident person, and that non-resident person satisfies the Minister that the land was or is to be acquired,

- (a) for the purpose of the development and resale of land for residential, commercial or industrial purposes;*
- (b) for the purpose of establishing, expanding or relocating any active commercial or industrial business that is or will be carried on by the non-resident person who shall undertake to obtain, within such time as is agreed upon with the Minister, any zoning changes necessary to permit the land to be used as proposed and to complete, within such time as is agreed upon with the Minister, the establishment, expansion or relocation for which the land was or is to be acquired;*
- (c) by a non-resident person who is a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person within five years from the date of the grant of a deferral or remission under this subsection with respect to the acquisition of the land; or*
- (d) by a non-resident person who is an individual other than a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person within two years from the date of the grant of a deferral or remission under this subsection with respect to the acquisition of the land,*

the Minister may, with the approval of the Lieutenant Governor in Council, defer the payment of the tax, or remit the tax paid, on such conditions as to the use and development of the land or otherwise as are considered advisable and sufficient to ensure the development of the land as proposed or compliance with any undertakings given by the non-resident person acquiring the land, and any tax deferred or remitted under this subsection constitutes a first lien and charge in favour of Her Majesty in right of Ontario on the land so acquired or to be acquired, and the lien and charge shall be effective upon registration by the Minister of a notice thereof, and the

Minister may discharge the lien and charge in whole or in part as the conditions that he has imposed or the undertakings that have been given to him are fulfilled or complied with, and may, where he considers it necessary and advisable to enable the performance of any condition or undertaking, postpone, release or waive the lien and charge with respect to all or any part of any land affected by the lien and charge.

(2) A deferral or remission under subsection (1) may not exceed the amount by which the rate of tax imposed by subsection 2 (2) exceeds the rate of tax imposed by subsection 2 (1), but may otherwise be for all or any part of the tax.

(3) Where tax is deferred under subsection (1) upon conditions that are fulfilled, the amount of the tax so deferred is thereupon cancelled and no longer owing as tax under this Act, and where the conditions upon which any tax has been remitted under subsection (1) are not fulfilled, the tax so remitted thereupon becomes payable.

(4) Upon the tender for registration of a conveyance that is described in any of clauses (a) to (e) and that is made to a non-resident person, the tax imposed by subsection 2 (2) shall, notwithstanding any other provision of this Act, be reduced to an amount equal to the tax that would result if only the rates of tax mentioned in subsection 2 (1) were applicable,

(a) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance and stating,

(i) that he has been lawfully admitted to Canada and is lawfully in Canada as an immigrant admitted under the Immigration Act (Canada) for permanent residence in Canada, or that he is lawfully in Canada for the purpose of engaging in a trade, profession, calling, occupation or employment that he is authorized to engage in in Canada, and the nature of that trade, profession, calling, occupation or employment,

(ii) that the land being conveyed to him is being acquired by him for the purpose of enabling him to establish thereon his principal residence in Canada, and will not be used as the residence of persons other than the transferee or members of his family or members of his usual domestic establishment,

(iii) the number and expiration date of the employment visa, if any, issued to him pursuant to the Immigration Act (Canada) or regulations made thereunder and the length of time during which he intends to engage in the trade, profession, calling, occupation or employment for which he was admitted into Canada, and

(iv) that he is not in Canada as a tourist or visitor or for the purpose of passing through Canada to another country, or as a student admitted to Canada under the provisions of paragraph 7 (1) (f) of the Immigration Act (Canada);

(b) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance and stating,

(i) that the transferee is a Canadian citizen, and

(ii) that the land being conveyed to him is being acquired by him for the purpose of enabling him to establish thereon a place of residence or recreation to be his principal residence or principal recreational property upon his return to Canada to take up permanent residence in Canada;

(c) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance, or where such transferee is a corporation, by an authorized officer of that corporation, stating,

- (i) *that the transferee, on and after the 9th day of April, 1974, has continuously occupied premises in Canada where the transferee carried on an active commercial or industrial business that is not principally,*
 - (A) *the rental of land or premises for possession or occupancy for a period of one month or more,*
 - (B) *the acquisition of land,*
 - (C) *the sale of land owned by the seller,*
 - (D) *the holding of land, or*
 - (E) *the development of land,*
 - (ii) *the nature of such business so carried on by the transferee, and the principal location in Canada from which such business is carried on, and*
 - (iii) *that the land being conveyed to the transferee is being acquired for the purpose of enabling the transferee to acquire the freehold of only the leased premises on which such business is being carried on and not of other premises, or is being acquired for the purpose of expanding or relocating the operations of such business where such expansion or relocation is not prevented by any zoning restrictions affecting the land conveyed;*
- (d) *the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance, or where such transferee is a corporation, by an authorized officer of that corporation, and stating that the land being conveyed to him is being acquired by him as part of his normal business practice and either,*
- (i) *for the principal purpose of selling the land to an employee of the transferee or to such employee and his spouse as the residence of that employee and members of his family or members of his usual domestic establishment, or*
 - (ii) *for the principal purpose of making the land available for the exclusive use of his employees and members of their families or members of their usual domestic establishments as a place of residence; or*
- (e) *the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance, or where such transferee is a corporation, by an authorized officer of that corporation, stating,*
- (i) *that the land being conveyed to him is being acquired by him as the result of a final order of foreclosure under a mortgage or charge affecting the land or is being acquired in any other manner for the sole purpose of satisfying the obligations of the transferor to the transferee under a mortgage or charge affecting the land,*
 - (ii) *that the land being conveyed to him is being acquired by him only for the purpose of safeguarding or giving effect to rights or interests of the transferee as mortgagee or chargee and in respect of an outstanding loan that was owed by the transferor to the transferee and that is in default,*
 - (iii) *that the transferee is dealing in all respects with the transferor as though the parties were strangers, and*
 - (iv) *that the conveyance was not arranged with the intention of defeating the incidence of tax imposed by this Act.*

Subsections (9) and (10) continue the present provisions of subsections 16 (5) and (6) which now read as follows:

(5) Where it is established to the satisfaction of the Minister that land being acquired by a person is acquired for the purpose of replacing land that was taken from him under statutory authority, that was sold by him to a person by whom notice of an intention to take the land under statutory authority was given, or that was sold by him to a person having the power to take the land under statutory authority and in the reasonable expectation that, had the land not been so sold, it would have been taken from him by that person under statutory authority, the value of the consideration for the land being so acquired shall be reduced by an amount equal to the proceeds of sale reasonably attributable to the land that was so taken or sold.

(6) Where a person entitled to the leasehold interest in land acquires the freehold interest therein, the value of the consideration for the conveyance to that person of the freehold interest may be reduced by the amount of the value of the consideration for the conveyance by which such person acquired his leasehold interest in the land if the value of that consideration was determined under subclause 1 (1) (p) (iii) and if tax was computed and paid with respect to the value of that consideration so determined, but the reduction shall not exceed the value of the consideration for the conveyance of the freehold interest.

SECTION 11. This section provides that the Minister may accept a lesser amount in settlement of his claim for tax when there is some doubt as to the liability of the taxpayer for the entire amount of tax or if special circumstances exist which would render it inequitable for the Minister to demand payment of the whole amount of tax imposed.

Bill 14

1983

An Act to amend the Land Transfer Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 (1) of the *Land Transfer Tax Act*, being chapter 231 of the Revised Statutes of Ontario, 1980, is amended by relettering clause (a) as clause (aa) and by adding thereto the following clause:

s. 1 (1),
amended

- (a) “associate”, where used to indicate a relationship with any person or company means,
 - (i) any company of which such person or company beneficially owns, directly or indirectly, voting securities carrying more than 10 per cent of the voting rights attached to all voting securities of the company for the time being outstanding,
 - (ii) any partner of that person or company,
 - (iii) any trust or estate in which such person or company has a substantial beneficial interest or as to which such person or company serves as trustee or in a similar capacity,
 - (iv) the spouse or any parent, son or daughter, brother or sister of that person, or
 - (v) any relative of such person or of his spouse who has the same home as such person.

(2) Clause 1 (1) (b) of the said Act is amended by inserting after “Ontario” in the fifth line “or the registration of a caution or notice of any kind signifying the existence of an unregistered instrument or writing by which land is conveyed”.

s. 1 (1) (b),
amended

(3) Clause 1 (1) (c) of the said Act is amended by striking out “notice or caution” in the fourth line and inserting in lieu thereof “caution or notice of any kind”.

s. 1 (1) (c),
amended

s. 1 (1) (f) (ii),
amended

(4) Subclause 1 (1) (f) (ii) of the said Act is amended by inserting after “person” in the fifth line “or by that person and one or more persons who are associates of that person and who are themselves non-resident persons” and by inserting after “person” in the eighth line “or group of non-resident persons”.

s. 1 (1) (f),
amended

(5) Clause 1 (1) (f) of the said Act is amended by striking out “or” at the end of subclause (iv) and by adding thereto the following subclauses:

- (vi) one-quarter or more of the paid-up capital of which is held by a non-resident person or by that person and one or more persons who are associates of that person and who are themselves non-resident persons,
- (vii) one-half or more of the paid-up capital of which is held by one or more non-resident persons,
- (viii) that would be required on dissolving, winding-up, or any other distribution that is not a dividend, to distribute one-quarter or more of its surplus to a non-resident person or to that person and one or more persons who are associates of that person and who are themselves non-resident persons, or
- (ix) that would be required on dissolving, winding-up, or any other distribution of surplus that is not a dividend, to distribute one-half or more of its surplus to one or more non-resident persons.

s. 1 (1),
amended

(6) Subsection 1 (1) of the said Act is further amended by adding thereto the following clauses:

- (ga) “notice of any kind” includes a recital or reference made in any registered instrument;

.

- (ja) “spouse” means spouse as defined in clause 14 (b) of the *Family Law Reform Act*.

R.S.O. 1980,
c. 152

s. 1 (1) (k),
re-enacted

(7) Clause 1 (1) (k) of the said Act is repealed and the following substituted therefor:

- (k) “tax” means the tax imposed by this Act and includes all penalties and interest that are or may be added to a tax under this Act.

(8) Sub-subclause 1 (1) (p) (ii) (A) of the said Act is repealed and the following substituted therefor: s. 1 (1) (p)
(ii) (A),
re-enacted

- (A) the value of the consideration determined under subclause (i) plus the amount owed under the mortgage or charge at the time it is foreclosed, including principal, interest and all other costs and expenses other than municipal taxes, secured by the mortgage or charge and owing at the time plus the amount owing similarly calculated under any mortgage or charge that is subsequent in priority to the mortgage or charge in respect of which the final order of foreclosure is made and that is held by the mortgagee or chargee in whose favour the final order of foreclosure that is registered is made.

(9) Subclause 1 (1) (p) (iii) of the said Act is amended by striking out “a notice in writing signifying the existence of a lease of land or of a transfer” in the third and fourth lines and inserting in lieu thereof “a notice of any kind in writing signifying the existence of an unregistered lease of land or of an unregistered transfer”. s. 1 (1) (p)
(iii), amended

(10) Subclause 1 (1) (p) (iv) of the said Act is repealed and the following substituted therefor: s. 1 (1) (p)
(iv), re-
enacted

- (iv) in the case of a caution or notice of any kind in writing signifying the existence of any unregistered instrument or writing by which land is conveyed and that is not a notice in writing described in subclause (iii), the value of the consideration determined under subclause (i) or (ii) for the land conveyed by the unregistered instrument or writing that is referred to in such caution or notice in writing that is not a notice in writing described in subclause (iii).

(11) Clause 1 (1) (p) of the said Act is amended by adding thereto the following subclauses: s. 1 (1) (p),
amended

- (vi) in the case of a conveyance of land from a trustee to another trustee (whether or not

either trustee is so described in the conveyance) where,

(A) the person to whom or for whose benefit any equitable or beneficial interest in the land is held is not the same person to whom or for whose benefit any equitable or beneficial interest in the land was held by the trustee making the conveyance when that trustee first acquired his legal interest in the land, and

(B) valuable consideration has been given by the transferee of an equitable or beneficial interest for the transfer of any equitable or beneficial interest in the land held by the trustee making the conveyance while that trustee was the holder of the legal interest in the land,

the fair market value, ascertained at the time of the tender for registration, of the land to which the conveyance extends, or

(vii) in the case of a conveyance of land to a corporation where any part of the consideration consists of the allotment and issuance of the corporation's shares or in the case of a conveyance of land from a corporation to any of its shareholders the fair market value, ascertained at the time of the tender for registration, of the land to which the conveyance extends.

s. 1,
amended

(12) Section 1 of the said Act is amended by adding thereto the following subsections:

Deemed
ownership of
shares

(2a) Where a person has a right, either as an incident of ownership of a share of a corporation or otherwise under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, equity shares in a corporation, those shares shall, unless the right is contingent upon an event that it is not reasonable to expect to occur within a reasonable time or is such that a reasonable man concerned only with the value of the shares would not exercise it, be deemed to be owned by the person who has the right, and, where the shares are unissued, the shares shall be deemed to be issued and outstanding, and the shares shall be deemed to have a paid-up capital value, with respect to each share equal to,

- (a) the par value, where the shares have a par value;
- (b) the amount that would be paid with respect to each share to exercise the right under the terms of the contract, where the shares have no par value and an amount is specified in the contract; or
- (c) the market value of a share of the class of shares of that corporation that is most clearly similar to that share, where the shares have no par value and no amount is specified in the contract,

and any other person who actually owns the share in respect of which that right exists shall be deemed not to own those shares.

(2b) Where any share of a corporation, or any interest in any share of a corporation as described in subsection (2a), is owned jointly and one or more of the joint owners is a non-resident, the share or interest shall be deemed to be owned by a non-resident person.

Where one or more joint owners a non-resident

(13) Subsection 1 (4) of the said Act is amended by inserting after “notice” in the fourth line “of any kind”.

s. 1 (4), amended

(14) Section 1 of the said Act is further amended by adding thereto the following subsection:

s. 1, amended

(5) For the purposes of this Act, farming shall not be considered to be a commercial or industrial business.

Interpretation

2. Section 2 of the said Act is amended by adding thereto the following subsections:

s. 2, amended

(2a) Where there is a disposition of agricultural land within the meaning of clause (2c) (a) or (b), and where a corporation that owns the land becomes, as a result of the disposition, a non-resident corporation other than a non-resident corporation the equity shares of which have been listed and posted for trading on any stock exchange prescribed under Part XXXII of the Income Tax regulations, being chapter 945 of the Consolidated Regulations of Canada, made under the *Income Tax Act* (Canada), there shall be imposed and levied upon the agricultural land so disposed of, for the use of Her Majesty in right of Ontario, a tax computed at the rate of 20 per cent of the fair market value of the land at the time of disposition and the tax is payable to the Treasurer by the corporation that owns the land immediately upon the disposition and shall be remitted to the Minister at the time of disposition by the person responsible for its payment.

Tax imposed on dispositions

R.S.C. 1970, c. 1-5

Idem

(2b) Where there is a disposition of agricultural land within the meaning of clause (2c) (c), and where a trust that owns the land becomes, as the result of the disposition, a non-resident person, there shall be imposed or levied upon the agricultural land so disposed of, for the use of Her Majesty in right of Ontario, a tax computed at the rate of 20 per cent of the fair market value of the land at the time of the disposition and the tax is payable to the Treasurer immediately upon the disposition by the trust, and the trustee or other holder of the legal interest in the land shall remit the tax to the Minister out of the money or other property in his possession belonging or owing to the beneficiaries at the time of the disposition.

Dispositions
defined

(2c) In this section, a disposition of agricultural land includes,

R.S.O. 1980,
c. 31

- (a) the sale or transfer in any manner of any beneficial interest in, or the allotment and issue of, including the acquisition of an interest as described in subsection 1 (2a) of shares that are shares in the capital stock of a corporation one of the assets of which consists of any land that is assessed under the *Assessment Act*, or is actually used, as agricultural or farm land, woodlands or as an orchard, but this clause does not apply to any transfer of the beneficial interest in such shares that occurs by reason of the death of the owner of them and that is not provided for by an agreement enforceable against the corporation that issued such shares or enforceable by or against the person legally or beneficially entitled to such shares immediately following the death of the owner of them;
- (b) the amalgamation, merger, consolidation or any other like arrangement of any two or more corporations one of the assets of any one or more of which consists of any land that is assessed under the *Assessment Act*, or is actually used, as agricultural or farm land, woodlands or as an orchard; or
- (c) the sale or transfer, however effected, of any part of the beneficial interest in, any change in the entitlement to, or any accretion to, the beneficial interest in land that is assessed under the *Assessment Act*, or actually used, as agricultural or farm land, woodlands or as an orchard, including any declaration of trust where any part of the corpus of the trust is such land, but this clause does not apply to any transfer of any beneficial interest in land that occurs by reason of the death of the owner of such interest and that is

not provided for by an agreement enforceable by or against the person legally or beneficially entitled to such interest immediately following the death of the owner of it.

3.—(1) Subsection 4 (1) of the said Act is amended by striking out “such other information as the Minister may prescribe to be disclosed in the affidavit” in the eighth and ninth lines and inserting in lieu thereof “such affidavit shall state whether the transferee to whom the land is being conveyed is a non-resident person or the trustee for a non-resident person and shall contain such other information as the Minister may prescribe to be disclosed”.

s. 4 (1),
amended

(2) Subsection 4 (2) of the said Act is repealed.

s. 4 (2),
repealed

(3) Subsection 4 (3) of the said Act is amended,

s. 4 (3),
amended

(a) by striking out that portion of the subsection that precedes clause (a) and inserting in lieu thereof “The affidavit required by subsection (1) shall be made by”;

(b) by striking out “married to” in the first line of clause (g) and inserting in lieu thereof “spouses of”; and

(c) by striking out that portion of the subsection that follows clause (g).

(4) Subsection 4 (4) of the said Act is amended by striking out “or (3)” in the first line.

s. 4 (4),
amended

(5) Subsection 4 (6) of the said Act is repealed.

s. 4 (6),
repealed

(6) Subsection 4 (7) of the said Act is repealed and the following substituted therefor:

s. 4 (7),
re-enacted

(7) Notwithstanding subsection (1), no affidavit is required under that subsection on the tender for registration of a conveyance to or in trust for a transferee who is expressly named in the conveyance and who is Her Majesty in right of Ontario, Her Majesty in right of Canada or a Crown agency within the meaning of the *Crown Agency Act*.

Affidavit not
required

R.S.O. 1980,
c. 106

(7) Subsection 4 (8) of the said Act is repealed and the following substituted therefor:

s. 4 (8),
re-enacted

(8) Every person liable to pay tax under subsection 2 (2a) and every trustee or other holder of the legal interest in agricultural land with respect to which a disposition has occurred who

Returns

is liable to remit the tax out of the money or other property in his possession belonging or owing to the beneficiaries of a trust liable to pay tax under subsection 2 (2b) shall deliver a return to the Minister in such form as the Minister shall prescribe on or before the 30th day following the day when the tax becomes payable and shall remit the tax payable with the return.

Penalty for
default in
filing returns

(9) Every person who fails to deliver a return as required by subsection (8), or who fails to remit with his return the amount of tax payable, shall pay, when assessed therefor, a penalty of an amount equal to 25 per cent of the tax payable.

Extension of
time for
returns

(10) The Minister may extend the time for making the return required under subsection (8) either before or after the time for making it has expired.

Offence

(11) In addition to any penalty assessed under subsection (9), every person who has failed to deliver a return as required by subsection (8) is guilty of an offence and on conviction is liable to a fine of not less than 25 per cent of the tax payable plus, in an appropriate case, an amount of not more than the amount of tax payable.

Trustee not
personally
liable if he
deducts tax

(12) A trustee or other holder of the legal interest in agricultural land with respect to which a disposition has occurred is not, as such, personally liable for the tax levied under subsection 2 (2b), but no person in Ontario shall pay, deliver, assign or transfer to or for the benefit of the person beneficially entitled thereto any property that is vested in him as trustee or other holder of the legal interest in such property at any time after the tax levied under subsection 2 (2b) becomes payable without deducting therefrom or collecting an amount sufficient to pay the tax levied.

Penalty

(13) Every such trustee or other holder of the legal interest in agricultural land with respect to which a disposition has occurred who transfers property that is vested in him as trustee or other holder of the legal interest in such property without deducting therefrom or collecting in accordance with subsection (12) the tax payable under subsection 2 (2b) by the trust is guilty of an offence and on conviction is liable to a fine equal to 125 per cent of such tax.

Raising of
funds for tax

(14) A trustee or other holder of the legal interest in agricultural land with respect to which a disposition has occurred who is required by subsection 2 (2b) to pay tax out of the money or other property in his possession belonging or owing to the beneficiaries of a trust liable to pay tax under subsection 2 (2b), has, for the purpose of paying such tax, the power to raise the amount of such tax and any interest and expense properly

incurred by him in respect thereof, by sale, mortgage, lease or pledge, of so much property as may be necessary for such purpose.

(15) Fines imposed under this Act shall be paid to the Treasurer on behalf of Her Majesty the Queen in right of Ontario.

Fines payable
to Treasurer

4. Section 5 of the said Act is repealed and the following substituted therefor:

s. 5,
re-enacted

5. Any person who has made, or participated in, assented to or acquiesced in the making of, a false or deceptive statement in a return required under subsection 4 (8) or in a response to a demand of the Minister under subsection 8 (2) is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on conviction to a fine of the amount of the tax that, had the true facts been stated, would have been payable, plus an amount of not less than \$50 and not more than \$1,000.

False
statements

5.—(1) Subsection 7 (3) of the said Act is amended by striking out “notice or caution in writing signifying the existence of any” in the first and second lines and inserting in lieu thereof “caution or notice of any kind signifying the existence of any unregistered”.

s. 7 (3),
amended

(2) Section 7 of the said Act is amended by adding thereto the following subsection:

s. 7,
amended

(5) Where a person has, in accordance with this Act and the regulations, applied for a refund under this Act and his claim is in whole or in part refused, the Minister shall cause to be delivered to such person a statement of disallowance in such form as the Minister shall prescribe, and the statement shall specify the amount of the disallowance and the reasons therefor.

Disallowance
of refund

6.—(1) Subsection 11 (1) of the said Act is repealed and the following substituted therefor:

s. 11 (1),
re-enacted

(1) Where a person objects to an assessment made under section 10 or a statement of disallowance made under subsection 7 (5), he may, within ninety days after the day of mailing or delivery by personal service of the notice of assessment or statement of disallowance, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

Notice of
objection

(2) Subsection 11 (3) of the said Act is repealed and the following substituted therefor:

s. 11 (3),
re-enacted

Reconsideration

(3) Upon receipt of a notice of objection, the Minister shall with all due despatch reconsider the assessment or statement of disallowance and vacate, confirm or vary the assessment or statement of disallowance or reassess or serve a fresh statement of disallowance and he shall thereupon notify the person who has made the objection of his action by registered mail.

s. 12 (1),
re-enacted

7.—(1) Subsection 12 (1) of the said Act is repealed and the following substituted therefor:

Appeal

(1) After the Minister has given the notification required by subsection 11 (3), a person who has served notice of objection under section 11 may appeal to the Supreme Court to have the assessment or the statement of disallowance vacated or varied or reassessed or a fresh statement of disallowance issued, but no appeal under this section shall be instituted after the expiration of ninety days from the day on which notice has been mailed to such person under subsection 11 (3).

s. 12 (7),
amended

(2) Subsection 12 (7) of the said Act is amended by striking out “to vacate the assessment, vary the assessment or reconsider the assessment and reassess” in the third and fourth lines and inserting in lieu thereof “to vacate, vary or reconsider the assessment or statement of disallowance and reassess or issue a fresh statement of disallowance”.

s. 13 (1) (b),
amended

8.—(1) Clause 13 (1) (b) of the said Act is amended by striking out “interest and penalty or any of them” in the fifth line.

s. 13,
amended

(2) Section 13 of the said Act is amended by adding thereto the following subsections:

Lien on real
property in
respect of
taxes

(1a) All taxes, costs and other amounts imposed under this Act are, upon the registration by the Minister in the proper land registry office of a notice claiming the first lien and charge conferred by this subsection, a first lien and charge upon any real property in Ontario or any interest therein of the person liable to pay such taxes, costs and other amounts, and such first lien and charge has priority over all encumbrances or claims registered or attaching to the subject property subsequent to the registration of the notice.

Where a
person is not
a registered
owner

(1b) Where a person has an interest in real property but is not shown as the registered owner thereof in the proper land registry office,

(a) the notice to be registered under subsection (1a) shall recite the interest of the person in the real property; and

- (b) a copy of the notice registered under subsection (1a) shall be sent to the registered owner at his address to which the latest notice of assessment under the *Assessment Act* has been sent. R.S.O. 1980, c. 31

9.—(1) Subsection 15 (1) of the said Act is repealed and the following substituted therefor: s. 15 (1), re-enacted

(1) Where the tax imposed by section 2 or any penalty under subsection 4 (9) is not paid at the time provided for, interest on the unpaid amount shall be paid to the Treasurer at such rate as is prescribed by the Lieutenant Governor in Council and the Lieutenant Governor in Council may also prescribe the method by which such interest is to be calculated, but no interest is payable for any period of time prior to the 10th day of April, 1974. Interest on unpaid tax

(2) Subsection 15 (2) of the said Act is repealed. s. 15 (2), repealed

10. Section 16 of the said Act is repealed and the following substituted therefor: s. 16, re-enacted

16.—(1) Where tax may be payable on the registration of a conveyance of land to a non-resident person, and that person satisfies the Minister prior to the registration of the conveyance that the land was or is to be acquired, Deferral of tax on certain conveyances to non-residents

- (a) by a non-resident person who undertakes to the Minister to develop and resell the land for residential, commercial or industrial purposes not later than five years after the date of the grant of the deferral under this section;
- (b) by a non-resident person who undertakes to the Minister to establish, expand or relocate any active commercial or industrial business that is or will be carried on by the non-resident person, and the non-resident person undertakes to obtain any zoning changes necessary to permit the land to be used as proposed within the time agreed to by the Minister, and to complete the establishment, expansion or relocation within the time agreed to by the Minister, but the time for completing the establishment, expansion or relocation shall not exceed five years from the date of the grant of the deferral under this section;
- (c) by a non-resident person who is a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person not later than five years after the date of the grant of the deferral under this section;

- (d) by a non-resident person who is acquiring the land from a transferor with whom he deals at arm's length as a result of a final order of foreclosure under a mortgage or charge affecting the land or in satisfaction of the obligations of the transferor to the transferee under a mortgage or charge affecting the land which is in default and who undertakes to the Minister to resell the land not later than five years after the date of the grant of the deferral under this section; or
- (e) by a non-resident person who is an individual other than a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person within two years after the date of the grant of the deferral under this section,

the Minister may defer the payment by the non-resident person of that portion of the tax imposed by subsection 2 (2) which exceeds the tax imposed by subsection 2 (1), on condition that security in a form and of a kind acceptable to the Minister is furnished to the Minister for the performance of the undertakings given by the non-resident person.

Rebate of tax
on certain
conveyances
to non-
residents

(2) Where the tax imposed by subsection 2 (2) has been paid on the registration of a conveyance of land to a non-resident person, the Minister may rebate and provide a deferral of that portion of the tax imposed by subsection 2 (2) which exceeds the tax imposed by subsection 2 (1), if the land was acquired and still owned by,

- (a) a non-resident person who undertakes to the Minister to develop and resell the land for residential, commercial or industrial purposes not later than five years after the date of the registration of the conveyance;
- (b) a non-resident person who undertakes to the Minister to establish, expand or relocate any active commercial or industrial business that is or will be carried on by the non-resident person and the non-resident person undertakes to obtain any zoning changes necessary to permit the land to be used as proposed within the time agreed to by the Minister and to complete the establishment, expansion or relocation within the time agreed to by the Minister, but the time for completing the establishment, expansion or relocation shall not exceed five years from the date of the registration of the conveyance;

- (c) by a non-resident person who is a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person not later than five years after the date of the registration of the conveyance;
- (d) by a non-resident person who acquired the land from a transferor with whom he deals at arm's length as a result of a final order of foreclosure under a mortgage or charge affecting the land or in satisfaction of the obligations of the transferor to the transferee under a mortgage or charge affecting the land which was in default and who undertakes to the Minister to resell the land not later than five years after the date of the registration of the conveyance; or
- (e) by a non-resident person who is an individual other than a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person within two years after the date of the registration of the conveyance,

and on the condition that security in a form and of a kind acceptable to the Minister is furnished to the Minister for the performance of the undertakings given by the non-resident person.

(3) No rebate or deferral of tax may be granted under subsection (2) unless application is made therefor by the non-resident person not later than six months after the registration of the conveyance of the land to him. Idem

(4) Where the Minister is satisfied that a person has performed the conditions undertaken by him under subsection (1) or (2), the Minister shall return to the person the security furnished in respect of the deferral granted and the amount of tax deferred is thereupon cancelled and no longer owing as tax under this Act. Deferred tax cancelled

(5) Where a person fails to perform the conditions undertaken by him under subsection (1) or (2) to the satisfaction of the Minister, the amount of the tax deferred under subsection (1) or (2) shall become immediately due and payable together with interest thereon at the prescribed rate calculated from the date of registration of the conveyance of the land to the person, and the Minister may enforce the security furnished by the person and apply the proceeds towards the amount owed under this Act. Deferred tax collected

(6) Notwithstanding subsection (5), the Minister may extend the time for fulfilling any undertaking given by a non-resident Extension of time

person under subsection (1) or (2), upon terms and conditions acceptable to the Minister, for a period of time not exceeding one year.

Idem

(7) The Minister may at such time or times as he considers advisable publish in *The Ontario Gazette* the particulars of a deferral of tax or extension of deferral given under this section.

Reduction of
tax on land
acquired for
principal
residence

(8) Where it is established to the satisfaction of the Minister that land will be acquired by a non-resident person,

- (a) who is a Canadian citizen, or the spouse of a Canadian citizen, for the purpose of using the land only for the principal residence or principal recreational property of the Canadian citizen or his spouse upon the return of either of them to Canada to take up permanent residence; or
- (b) who is an employer, for the principal purpose of selling the land to an employee, or to any employee and his spouse, to be used only as the residence of the employee and members of his family or of his usual domestic establishment, or for the principal purpose of making the land available for the exclusive use of his employees and members of their families, or of their usual domestic establishments, as a place of residence only,

the Minister may cancel that portion of the tax imposed by subsection 2 (2) which exceeds the tax imposed by subsection 2 (1).

Reduction of
consideration
on land
acquired to
replace land
compulsorily
taken

(9) Where it is established to the satisfaction of the Minister that land is being acquired by a person for the purpose of replacing land that was taken from him under statutory authority, that was sold by him to a person by whom notice of an intention to take the land under statutory authority was given, or that was sold by him to a person having the power to take the land under statutory authority and it is reasonable to assume that, had the land not been sold, it would have been taken from him by that person under statutory authority, the value of the consideration for the land being acquired shall be reduced by an amount equal to the compensation or proceeds of sale reasonably attributable to the land that was taken or sold.

Reduction of
consideration
on lessee
acquiring
freehold

(10) Where a person entitled to the leasehold interest in land acquires the freehold interest therein, the value of the consideration for the conveyance to the person of the freehold interest may be reduced by the amount of the value of the consideration for the conveyance by which the person acquired his leasehold

interest in the land, if the value of that consideration was determined under subclause 1 (1) (p) (iii) and tax was computed and paid with respect to the value of that consideration so determined, but the reduction shall not exceed the value of the consideration for the conveyance of the freehold interest.

11. The said Act is amended by adding thereto the following section: s. 17a,
enacted

17a. If any doubt or dispute arises as to the liability to pay a tax or any portion of a tax demanded under the authority of this Act, or if owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed by this Act, the Minister may accept such amount as he deems proper. Resolving
disputes

12.—(1) This Act comes into force on the day it receives Royal Assent. Commencement

(2) Provided that no disposition of agricultural land described in subsection 2 (2c) of the *Land Transfer Tax Act*, as enacted by section 2 of this Act, has occurred, no tax is payable where a corporation or trust becomes a non-resident person as a result of the amendments contained in section 1 of this Act, and no tax is payable with respect to any disposition of agricultural land that occurs before this Act comes into force. Application
R.S.O. 1980,
c. 231

13. The short title of this Act is the *Land Transfer Tax Amendment Act, 1983*. Short title

Bill 14



An Act to amend the Land Transfer Tax Act

The Hon. G. L. Ashe

Minister of Revenue

1st Reading April 21st, 1983

2nd Reading May 24th, 1983

3rd Reading

Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

GENERAL. The Bill deems a taxable disposition of land to occur where a corporation or trust which owns agricultural land in Ontario becomes a non-resident. A non-resident is thereby prevented from avoiding the 20 per cent tax imposed on conveyances of land by purchasing shares in a company owning Ontario agricultural land.

In addition, the Bill proposes amendments to clarify the administration of the Act, by,

- (a) providing a mechanism through which a taxpayer may appeal the disallowance by the Minister of a claim for refund;
- (b) allowing non-resident purchasers to pay the lower rate of tax on acquisitions of land in Ontario for certain specified purposes;
- (c) providing for a single consolidated affidavit as to both the value of the consideration and the residence of the transferee; and
- (d) providing for the determination in certain circumstances of the value of the consideration for the conveyance of land on which tax is exigible.

SECTION 1. Subsection (1) of this section provides for the definition of the word "associate" to indicate the relationship between a company and another company or person that holds its shares, between partners, between a trust and its trustees and beneficiaries, and between certain relatives.

Subsection (2) extends the definition of "convey" to include the registration of an instrument containing a recital or reference to an unregistered instrument by which land is conveyed. The change relates to the changes contained in subsections (3), (6), (9), (10) and (13) and subsection 5 (1). Clause 1 (1) (b) of the Act now reads as follows:

- (b) *"convey" includes the granting, assigning, releasing, surrendering, leasing or disposing of land in Ontario, agreeing to sell land in Ontario, or the giving of an option upon or with respect to any land in Ontario, whether the effect of any of the foregoing is to bring into existence an interest of any kind in land or is only for the purpose of giving effect to or formal recognition to any interest of whatsoever kind that theretofore existed in land, but "convey" does not include any transfer of land for the purpose only of securing a debt or loan, or any transfer by a creditor for the purpose only of returning land that had been used as security for a debt or loan.*

Subsection (3) extends the definition of "conveyance" to include a recital or reference in any registered instrument to an unregistered instrument by which land is conveyed. The change relates to the changes contained in subsections (2), (6), (9), (10) and (13) and subsection 5 (1). Clause 1 (1) (c) of the Act now reads as follows:

- (c) *"conveyance" includes any instrument or writing by which land is conveyed and includes a final order of foreclosure under any mortgage or charge affecting land and a notice or caution in writing signifying the existence of any instrument or writing by which land is conveyed.*

Subsection (4) extends the definition of "non-resident corporation" to include a corporation which has allotted shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable to a non-resident and his non-resident associates. Subclause 1 (1) (f) (ii) of the Act now reads as follows:

- (f) *"non-resident corporation" means a corporation incorporated, formed or otherwise organized in Canada or elsewhere,*

- (ii) *that has allotted and issued shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable at meetings of the shareholders of the corporation and that are owned by any one non-resident person, but this subclause does not apply where it is established to the satisfaction of the Minister*

that such non-resident person does not in fact directly or indirectly exercise control over the corporation and that subclause (v) does not apply to the corporation.

Subsection (5) further extends the definition of “non-resident corporation” by including any corporation,

- (a) one-quarter of the paid-up capital of which is held by a non-resident and his non-resident associates;
- (b) one-half of the paid-up capital of which is held by non-residents;
- (c) one-quarter of the surplus of which would be distributed to a non-resident and his non-resident associates in the event of a dissolution or winding-up; or
- (d) one-half of the surplus of which would be distributed to non-residents in a dissolution or winding-up.

Subsection (6) defines “spouse” by reference to the meaning of that term in the *Family Law Reform Act*. The definition of “notice of any kind” relates to subsections (2), (3), (9), (10) and (13) and subsection 5 (1).

Subsection (7) defines “tax” to include penalties and interest added to the tax. Clause 1 (1) (k) of the Act now reads as follows:

(k) “tax” means the tax imposed by this Act.

Subsection (8) provides a means to establish the value of the consideration for a conveyance upon which tax is based in the circumstances of a mortgage foreclosure. Sub-subclause 1 (1) (p) (ii) (A) of the Act now reads as follows:

(p) “value of the consideration” includes,

(ii) *in the case of a final order of foreclosure under any mortgage or charge affecting land, the lesser of,*

(A) *the amount owed under the mortgage or charge at the time it was foreclosed, including principal, interest and all other costs and expenses, other than municipal taxes, secured by the mortgage or charge and owing at that time, or*

Subsection (9) extends the situations in which the valuation method for leasehold interests conveyed can be used to include situations where a recital or reference in a registered instrument refers to an unregistered lease. This change relates to subsections (2), (3), (6), (10) and (13) and subsection 5 (1). Subclause 1 (1) (p) (iii) of the Act now reads as follows:

(iii) *in the case where a lease of land, a transfer of the interest of a lessee under a lease of land, or a notice in writing signifying the existence of a lease of land or of a transfer of the interest of a lessee under a lease of land is not exempt from tax by virtue of subsection (4), the fair market value, ascertained as at the time of the tender for registration, of the land to which the lease extends or of a smaller portion of such land if only such smaller portion is conveyed.*

Subsection (10) amends the definition of “value of the consideration” to include a method of valuation where the conveyance is a recital or reference in a registered instrument to a conveyance in an unregistered instrument. This change relates to subsections (2), (3), (6), (9) and (13) and subsection 5 (1). Subclause 1 (1) (p) (iv) of the Act now reads as follows:

- (iv) *in the case of a notice or caution in writing signifying the existence of any instrument or writing by which land is conveyed and that is not a notice in writing described in subclause (iii) the value of the consideration, determined under subclause (i) or (ii) for the land conveyed by the instrument or writing that is referred to in such notice or caution in writing that is not a notice in writing described in subclause (iii), or*

Subsection (11) provides a means to establish the value of the consideration for a conveyance on which tax is based where a person conveys land to a corporation in return for shares of the corporation or where a corporation distributes land as a dividend in specie and where a trustee conveys land to another trustee subsequent to a transfer for valuable consideration of the beneficial interest in the land.

Subsection (12) provides that where a person has a contractual right either immediately or at a future time to acquire shares, that person will be deemed to own the shares and provides for the deemed issue and paid-up value of the shares. In addition, the subsection provides that where a share is owned jointly by several persons, one of whom is a non-resident, the share shall be considered to be owned by a non-resident.

Subsection (13) relates to subsections (2), (3), (6), (9) and (10) and subsection 5 (1).

Subsection (14) provides that farming will not be considered to be a commercial or industrial business for the purposes of the Act.

SECTION 2. This section provides that where as a result of a disposition of agricultural land, a corporation or trust becomes a non-resident, that corporation or trust shall pay a tax of 20 per cent of the fair value of the land so disposed of. Dispositions include,

- (a) the transfer of any beneficial interest in shares of a corporation, one of the assets of which is agricultural land;
- (b) the amalgamation of two or more corporations, one of the assets of any one or more of which is agricultural land; or
- (c) the transfer of a beneficial interest in agricultural land,

but no disposition occurs on a transfer that results from the death of the owner of the interest transferred and that is not provided for by an enforceable agreement.

SECTION 3. This section provides for a single affidavit to consolidate and replace the affidavit as to consideration and the affidavit as to residence, and repeals certain subsections rendered obsolete by the consolidation. The section also provides for returns and remittances of tax on dispositions of agricultural land.

Subsection (1) provides that the affidavit required under the Act will include a reference to the residency status of the transferee. Subsection 4 (1) of the Act now reads as follows:

(1) There shall be filed with the collector and attached by him to the conveyance to which it relates an affidavit in the prescribed form setting out the true value of the consideration for the conveyance, the true amount in cash and the value of any property or security included in the value of the consideration, the amount or value of any lien or encumbrance subject to which the conveyance was made, and such other information as the Minister may prescribe to be disclosed in the affidavit.

Subsection (2) repeals subsection 4 (2) of the Act which now reads as follows:

(2) The affidavit required by subsection (1) shall be made by the persons who are required to make the affidavit required by subsection (3), and notwithstanding subsection (3), the Minister may prescribe a form in which the affidavits required by subsection (1) or (3) are combined as one affidavit for the purposes of those subsections.

Subsection (3) provides that the affidavit must be made by the persons listed in clauses (a) to (g). Subsection 4 (3) of the Act now reads as follows:

(3) In addition to the affidavit required by subsection (1), there shall be filed with the collector and attached by him to the conveyance to which it relates an affidavit in such form as is prescribed, and the affidavit shall be made by,

- (a) each transferee to whom or in trust for whom any land is conveyed by the conveyance to which the affidavit relates;*
- (b) each trustee to whom any land is conveyed and who is shown as a trustee in the conveyance to which the affidavit relates;*
- (c) each transferee named in the conveyance to which the affidavit relates;*
- (d) an agent of any person referred to in clause (a), (b) or (c), if the agent is authorized in writing to make the affidavit;*
- (e) the solicitor acting in the transaction as the solicitor for any person referred to in clause (a), (b) or (c);*
- (f) the presiding officer authorized to act for a corporation that is a person referred to in clause (a), (b) or (c), or the Vice-President, Manager, Secretary, Director or Treasurer authorized to act for such corporation; or*
- (g) either of two transferees who are married to each other and both of whom are transferees referred to in clause (a), (b) or (c), where the transferee making the affidavit is acting on behalf of the other of such transferees,*

and such affidavit shall state whether the transferee to whom the land is being conveyed is a non-resident person or the trustee for a non-resident person, and shall state such other information as is required in order to complete the affidavit.

Subsection (4) amends the reference in subsection 4 (4) of the Act to refer to the consolidated affidavit. Subsection 4 (4) of the Act now reads as follows:

(4) The affidavit required by subsection (1) or (3) shall state that the person making it has personal knowledge of the facts stated in it, and shall state, where applicable, the capacity in which such person is making the affidavit and the name of any transferee on whose behalf such person is making the affidavit.

Subsection (5) repeals subsection 4 (6) of the Act which now reads as follows:

(6) Except as provided in subsection (7) or (8), where a conveyance is tendered for registration without the affidavit required by subsection (3), tax is payable at the rate provided in subsection 2 (2), and the collector shall not register the conveyance until such tax is paid, but if it is subsequently established to the satisfaction of the Minister that, had the affidavit required by subsection (3) been furnished to the collector, tax would have been payable as provided in subsection 2 (1), the Minister may refund the amount paid under this subsection in excess of the tax provided for in subsection 2 (1).

Subsection (6) provides that the consolidated affidavit is required on all conveyances except conveyances to the Crown. Subsection 4 (7) of the Act now reads as follows:

(7) Notwithstanding subsection (3), no affidavit is required under that subsection on the tender for registration of a conveyance to or in trust for a transferee who is expressly named in the conveyance and who is Her Majesty in right of Ontario, Her Majesty in right of Canada, a Crown agency within the meaning of the Crown Agency Act, the corporation of a municipality, including a district, metropolitan or regional municipality, in Ontario, a local board, as defined in the Municipal Affairs Act, of any such municipality in Ontario or Ontario Hydro or any corporation prescribed by the Minister by regulation or any individual acting in an official

capacity prescribed by the Minister by regulation, but the Minister may make regulations under this subsection only if he is satisfied that the corporation or the official capacity of the individual is such that the corporation or the individual acting in his official capacity is not, and is not likely to become, a non-resident person.

Subsection (7) provides for returns and remittances of tax with respect to dispositions of agricultural land to non-resident persons, including the time for filing returns and making remittances, a provision for the extension of that time and penalties for default in filing. The subsection also authorizes a trustee to realize on trust property in order to obtain funds to pay the tax. The trustee is not personally liable for the tax but where he disposes of trust property to beneficiaries without first accounting for tax he is guilty of an offence.

SECTION 4. This section provides that it is an offence to make, or participate in the making of, false or misleading statements in a return. Section 5 of the Act which provided for the payment of tax under protest is repealed; it now reads as follows:

5.—(1) Where the right of the collector to require payment of the tax is disputed by the person tendering a conveyance for registration, the tax may be paid under protest and the collector shall give a receipt in writing signed by him for the amount paid and stating that it was paid under protest, and he shall thereupon refer the matter for the decision of the Minister or of such official as the Minister appoints, who may order the refund of the tax or any part thereof to the person who paid it.

(2) In any dispute over the liability to tax of any person, the Minister may, after the tax has been paid, and if the dispute involves the interpretation of a provision of this Act, or involves an issue of law in which no facts are in dispute, or involves the proper inference to be drawn from facts that are not in dispute, agree in writing with the disputing party as to the undisputed facts and thereafter apply to the Supreme Court to have the issue in dispute determined, and if the Minister does not make the application within six weeks of the date upon which the undisputed facts have been agreed upon in writing, the other party to the dispute may apply to the court to have the issue determined.

SECTION 5. This section provides for the delivery by the Minister of a statement of disallowance to anyone whose claim for refund is refused. The section also changes the reference to a "notice or caution" and in this respect relates to subsections 1 (2), (3), (6), (9), (10) and (13). Subsection 7 (3) of the Act now reads as follows:

(3) Where a conveyance is registered that is a notice or caution in writing signifying the existence of any instrument or writing by which land is conveyed, and the instrument or writing described in the notice or caution evidences an agreement to transfer or extinguish an interest in land, the Treasurer shall, where the Minister is satisfied that the transfer or extinguishment contemplated in the agreement has not taken place, refund any tax paid on the tender for registration of the conveyance.

SECTION 6. This section provides that the review process related to a notice of objection will be available to a taxpayer to whom a statement of disallowance has been issued. Subsections 11 (1) and (3) of the Act now read as follows:

(1) Where a person objects to an assessment made under section 10 he may, within ninety days after the day of mailing or delivery by personal service of the notice of assessment, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

(3) Upon receipt of a notice of objection, the Minister shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or reassess, and he shall thereupon notify the person who has made the objection of his action by registered mail.

SECTION 7. This section provides that an appeal to the Supreme Court of Ontario is available to a taxpayer to whom a statement of disallowance has been issued. Subsections 12 (1) and (7) of the Act now read as follows:

(1) After the Minister has given the notification required by subsection 11 (3), a person who has served notice of objection under section 11 may appeal to the Supreme Court to have the assessment vacated or varied or reassessed, but no appeal under this section shall be instituted after the expiration of ninety days from the day on which notice has been mailed to such person under subsection 11 (3).

(7) The court may dispose of an appeal by allowing it, by dismissing it, or by allowing it in part and directing the Minister to vacate the assessment, vary the assessment or reconsider the assessment and reassess as indicated by the judgment of the court.

SECTION 8. Subsection (1) recognizes the change to the definition of "tax" in subsection 1 (7). Clause 13 (1) (b) of the Act now reads as follows:

(1) Upon default of payment of an amount assessed under section 10,

(b) the Minister may issue a warrant directed to the sheriff of any county or district in which any property of a person assessed for tax under this Act is located or situate for the amount of the tax, interest and penalty or any of them owing by him, together with interest thereon from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court on a judgment in favour of the Crown.

Subsection (2) provides that taxes are a first lien and charge upon the interest in real property of the person liable to pay those taxes, where the lien or charge is registered in the proper land registry office. Where the person interested in the real property is not the registered owner, the notice of first lien and charge shall recite his interest and a copy shall be delivered to the registered owner.

SECTION 9. This section provides for the removal of distinctions drawn between payments on account of penalties, accrued interest and unpaid taxes. Rates of interest will be prescribed by the Lieutenant Governor in Council. Section 15 of the Act now reads as follows:

15.—(1) Where the tax imposed by this Act is not paid at the time provided for, interest on the unpaid tax shall be paid to the Treasurer at the rate of 15 per cent per annum or at such other rate as may be prescribed by the Lieutenant Governor in Council by regulation but no interest is payable for any period of time prior to the 10th day of April, 1974.

(2) Any payment received by the Treasurer or a collector on account of any tax under this Act shall first be applied to any interest payable on the tax with respect to which the payment is made, but this subsection does not apply to payments on account of any fine or penalty payable under this Act.

SECTION 10. This section repeals and replaces section 16 of the Act and provides for tax at the lower rate prescribed under subsection 2 (1) of the Act to be exigible on acquisitions of land by non-resident persons when certain conditions are met.

Subsection (1) allows a non-resident person to obtain a deferral of a portion of the tax when,

- (a) the land is being acquired for development and resale;
- (b) the land is being acquired for use by the developer for residential, commercial or industrial purposes;
- (c) the land is being acquired by a non-resident person who intends to reside in Canada; or

- (d) the land is acquired as the result of a foreclosure under a mortgage or charge and the non-resident person intends to resell the land.

Subsection (2) provides for rebate and deferral of a portion of the tax paid by a non-resident person who intends to use land for the purposes set out in subsection (1).

Subsection (3) establishes a time limit during which a non-resident person may apply for the tax rebate and deferral set out in subsection (2).

Subsection (4) provides for the cancellation of the tax liability of a non-resident person for a portion of the tax when he has complied with his obligations under subsection (1) or (2).

Subsection (5) provides that a non-resident person will become liable for tax at full non-resident rates if he fails to comply with his obligations under subsection (1) or (2) within the time limits set out in those subsections.

Subsection (6) permits the Minister to grant a one-year extension to the time limit during which the non-resident person must comply with his obligations under subsection (1) or (2).

Subsection (7) permits the Minister to publish in *The Ontario Gazette* the details of tax deferrals granted and the extension of tax deferrals under this section.

Subsection (8) permits a non-resident person who is a Canadian to make application to pay a lower rate of tax when he acquires land to be used by himself or his family as a principal residence or as a principal recreational property, and permits a non-resident person who is not a Canadian citizen to apply to the Minister to pay a lower rate of tax on land acquired to be used by his employees and their families as their residences.

Subsections 16 (1), (2), (3) and (4) now read as follows:

(1) Where tax has been paid or may be payable on the registration of a conveyance of land to a non-resident person, and that non-resident person satisfies the Minister that the land was or is to be acquired,

- (a) for the purpose of the development and resale of land for residential, commercial or industrial purposes;*
- (b) for the purpose of establishing, expanding or relocating any active commercial or industrial business that is or will be carried on by the non-resident person who shall undertake to obtain, within such time as is agreed upon with the Minister, any zoning changes necessary to permit the land to be used as proposed and to complete, within such time as is agreed upon with the Minister, the establishment, expansion or relocation for which the land was or is to be acquired;*
- (c) by a non-resident person who is a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person within five years from the date of the grant of a deferral or remission under this subsection with respect to the acquisition of the land; or*
- (d) by a non-resident person who is an individual other than a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person within two years from the date of the grant of a deferral or remission under this subsection with respect to the acquisition of the land,*

the Minister may, with the approval of the Lieutenant Governor in Council, defer the payment of the tax, or remit the tax paid, on such conditions as to the use and development of the land or otherwise as are considered advisable and sufficient to ensure the development of the land or proposed or compliance with any undertakings given by the non-resident person acquiring the land, and any tax deferred or remitted under this subsection constitutes a first lien and charge in favour of Her Majesty in right of Ontario on the land so acquired or to be acquired, and the lien and charge shall be effective upon registration by the Minister of a notice thereof, and the

Minister may discharge the lien and charge in whole or in part as the conditions that he has imposed or the undertakings that have been given to him are fulfilled or complied with, and may, where he considers it necessary and advisable to enable the performance of any condition or undertaking, postpone, release or waive the lien and charge with respect to all or any part of any land affected by the lien and charge.

(2) A deferral or remission under subsection (1) may not exceed the amount by which the rate of tax imposed by subsection 2 (2) exceeds the rate of tax imposed by subsection 2 (1), but may otherwise be for all or any part of the tax.

(3) Where tax is deferred under subsection (1) upon conditions that are fulfilled, the amount of the tax so deferred is thereupon cancelled and no longer owing as tax under this Act, and where the conditions upon which any tax has been remitted under subsection (1) are not fulfilled, the tax so remitted thereupon becomes payable.

(4) Upon the tender for registration of a conveyance that is described in any of clauses (a) to (e) and that is made to a non-resident person, the tax imposed by subsection 2 (2) shall, notwithstanding any other provision of this Act, be reduced to an amount equal to the tax that would result if only the rates of tax mentioned in subsection 2 (1) were applicable,

(a) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance and stating,

(i) that he has been lawfully admitted to Canada and is lawfully in Canada as an immigrant admitted under the Immigration Act (Canada) for permanent residence in Canada, or that he is lawfully in Canada for the purpose of engaging in a trade, profession, calling, occupation or employment that he is authorized to engage in in Canada, and the nature of that trade, profession, calling, occupation or employment,

(ii) that the land being conveyed to him is being acquired by him for the purpose of enabling him to establish thereon his principal residence in Canada, and will not be used as the residence of persons other than the transferee or members of his family or members of his usual domestic establishment,

(iii) the number and expiration date of the employment visa, if any, issued to him pursuant to the Immigration Act (Canada) or regulations made thereunder and the length of time during which he intends to engage in the trade, profession, calling, occupation or employment for which he was admitted into Canada, and

(iv) that he is not in Canada as a tourist or visitor or for the purpose of passing through Canada to another country, or as a student admitted to Canada under the provisions of paragraph 7 (1) (f) of the Immigration Act (Canada);

(b) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance and stating,

(i) that the transferee is a Canadian citizen, and

(ii) that the land being conveyed to him is being acquired by him for the purpose of enabling him to establish thereon a place of residence or recreation to be his principal residence or principal recreational property upon his return to Canada to take up permanent residence in Canada;

(c) the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance, or where such transferee is a corporation, by an authorized officer of that corporation, stating,

- (i) *that the transferee, on and after the 9th day of April, 1974, has continuously occupied premises in Canada where the transferee carried on an active commercial or industrial business that is not principally,*
 - (A) *the rental of land or premises for possession or occupancy for a period of one month or more,*
 - (B) *the acquisition of land,*
 - (C) *the sale of land owned by the seller,*
 - (D) *the holding of land, or*
 - (E) *the development of land,*
 - (ii) *the nature of such business so carried on by the transferee, and the principal location in Canada from which such business is carried on, and*
 - (iii) *that the land being conveyed to the transferee is being acquired for the purpose of enabling the transferee to acquire the freehold of only the leased premises on which such business is being carried on and not of other premises, or is being acquired for the purpose of expanding or relocating the operations of such business where such expansion or relocation is not prevented by any zoning restrictions affecting the land conveyed;*
- (d) *the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance, or where such transferee is a corporation, by an authorized officer of that corporation, and stating that the land being conveyed to him is being acquired by him as part of his normal business practice and either,*
- (i) *for the principal purpose of selling the land to an employee of the transferee or to such employee and his spouse as the residence of that employee and members of his family or members of his usual domestic establishment, or*
 - (ii) *for the principal purpose of making the land available for the exclusive use of his employees and members of their families or members of their usual domestic establishments as a place of residence; or*
- (e) *the tender for registration of a conveyance to which is attached an affidavit made by the transferee named in the conveyance, or where such transferee is a corporation, by an authorized officer of that corporation, stating,*
- (i) *that the land being conveyed to him is being acquired by him as the result of a final order of foreclosure under a mortgage or charge affecting the land or is being acquired in any other manner for the sole purpose of satisfying the obligations of the transferor to the transferee under a mortgage or charge affecting the land,*
 - (ii) *that the land being conveyed to him is being acquired by him only for the purpose of safeguarding or giving effect to rights or interests of the transferee as mortgagee or chargee and in respect of an outstanding loan that was owed by the transferor to the transferee and that is in default,*
 - (iii) *that the transferee is dealing in all respects with the transferor as though the parties were strangers, and*
 - (iv) *that the conveyance was not arranged with the intention of defeating the incidence of tax imposed by this Act.*

Subsections (9) and (10) continue the present provisions of subsections 16 (5) and (6) which now read as follows:

(5) Where it is established to the satisfaction of the Minister that land being acquired by a person is acquired for the purpose of replacing land that was taken from him under statutory authority, that was sold by him to a person by whom notice of an intention to take the land under statutory authority was given, or that was sold by him to a person having the power to take the land under statutory authority and in the reasonable expectation that, had the land not been so sold, it would have been taken from him by that person under statutory authority, the value of the consideration for the land being so acquired shall be reduced by an amount equal to the proceeds of sale reasonably attributable to the land that was so taken or sold.

(6) Where a person entitled to the leasehold interest in land acquires the freehold interest therein, the value of the consideration for the conveyance to that person of the freehold interest may be reduced by the amount of the value of the consideration for the conveyance by which such person acquired his leasehold interest in the land if the value of that consideration was determined under subclause 1 (1) (p) (iii) and if tax was computed and paid with respect to the value of that consideration so determined, but the reduction shall not exceed the value of the consideration for the conveyance of the freehold interest.

SECTION 11. This section provides that the Minister may accept a lesser amount in settlement of his claim for tax when there is some doubt as to the liability of the taxpayer for the entire amount of tax or if special circumstances exist which would render it inequitable for the Minister to demand payment of the whole amount of tax imposed.

Bill 14

1983

An Act to amend the Land Transfer Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 (1) of the *Land Transfer Tax Act*, being chapter 231 of the Revised Statutes of Ontario, 1980, is amended by relettering clause (a) as clause (aa) and by adding thereto the following clause:

s. 1 (1),
amended

(a) “associate”, where used to indicate a relationship with any person or company means,

(i) any company of which such person or company beneficially owns, directly or indirectly, voting securities carrying more than 10 per cent of the voting rights attached to all voting securities of the company for the time being outstanding,

(ii) any partner of that person or company,

(iii) any trust or estate in which such person or company has a substantial beneficial interest or as to which such person or company serves as trustee or in a similar capacity,

(iv) the spouse or any parent, son or daughter, brother or sister of that person, or

(v) any relative of such person or of his spouse who has the same home as such person.

(2) Clause 1 (1) (b) of the said Act is amended by inserting after “Ontario” in the fifth line “or the registration of a caution or notice of any kind signifying the existence of an unregistered instrument or writing by which land is conveyed”.

s. 1 (1) (b),
amended

(3) Clause 1 (1) (c) of the said Act is amended by striking out “notice or caution” in the fourth line and inserting in lieu thereof “caution or notice of any kind”.

s. 1 (1) (c),
amended

s. 1 (1) (f) (ii),
amended

(4) Subclause 1 (1) (f) (ii) of the said Act is amended by inserting after “person” in the fifth line “or by that person and one or more persons who are associates of that person and who are themselves non-resident persons” and by inserting after “person” in the eighth line “or group of non-resident persons”.

s. 1 (1) (f),
amended

(5) Clause 1 (1) (f) of the said Act is amended by striking out “or” at the end of subclause (iv) and by adding thereto the following subclauses:

- (vi) one-quarter or more of the paid-up capital of which is held by a non-resident person or by that person and one or more persons who are associates of that person and who are themselves non-resident persons,
- (vii) one-half or more of the paid-up capital of which is held by one or more non-resident persons,
- (viii) that would be required on dissolving, winding-up, or any other distribution that is not a dividend, to distribute one-quarter or more of its surplus to a non-resident person or to that person and one or more persons who are associates of that person and who are themselves non-resident persons, or
- (ix) that would be required on dissolving, winding-up, or any other distribution of surplus that is not a dividend, to distribute one-half or more of its surplus to one or more non-resident persons.

s. 1 (1),
amended

(6) Subsection 1 (1) of the said Act is further amended by adding thereto the following clauses:

- (ga) “notice of any kind” includes a recital or reference made in any registered instrument;

.

- (ja) “spouse” means spouse as defined in clause 14 (b) of the *Family Law Reform Act*.

R.S.O. 1980,
c. 152

s. 1 (1) (k),
re-enacted

(7) Clause 1 (1) (k) of the said Act is repealed and the following substituted therefor:

- (k) “tax” means the tax imposed by this Act and includes all penalties and interest that are or may be added to a tax under this Act.

(8) Sub-subclause 1 (1) (p) (ii) (A) of the said Act is repealed and the following substituted therefor:

s. 1 (1) (p)
(ii) (A),
re-enacted

- (A) the value of the consideration determined under subclause (i) plus the amount owed under the mortgage or charge at the time it is foreclosed, including principal, interest and all other costs and expenses other than municipal taxes, secured by the mortgage or charge and owing at the time plus the amount owing similarly calculated under any mortgage or charge that is subsequent in priority to the mortgage or charge in respect of which the final order of foreclosure is made and that is held by the mortgagee or chargee in whose favour the final order of foreclosure that is registered is made.

(9) Subclause 1 (1) (p) (iii) of the said Act is amended by striking out “a notice in writing signifying the existence of a lease of land or of a transfer” in the third and fourth lines and inserting in lieu thereof “a notice of any kind in writing signifying the existence of an unregistered lease of land or of an unregistered transfer”.

s. 1 (1) (p)
(iii), amended

(10) Subclause 1 (1) (p) (iv) of the said Act is repealed and the following substituted therefor:

s. 1 (1) (p)
(iv), re-
enacted

- (iv) in the case of a caution or notice of any kind in writing signifying the existence of any unregistered instrument or writing by which land is conveyed and that is not a notice in writing described in subclause (iii), the value of the consideration determined under subclause (i) or (ii) for the land conveyed by the unregistered instrument or writing that is referred to in such caution or notice in writing that is not a notice in writing described in subclause (iii).

(11) Clause 1 (1) (p) of the said Act is amended by adding thereto the following subclauses:

s. 1 (1) (p),
amended

- (vi) in the case of a conveyance of land from a trustee to another trustee (whether or not

either trustee is so described in the conveyance) where,

(A) the person to whom or for whose benefit any equitable or beneficial interest in the land is held is not the same person to whom or for whose benefit any equitable or beneficial interest in the land was held by the trustee making the conveyance when that trustee first acquired his legal interest in the land, and

(B) valuable consideration has been given by the transferee of an equitable or beneficial interest for the transfer of any equitable or beneficial interest in the land held by the trustee making the conveyance while that trustee was the holder of the legal interest in the land,

the fair market value, ascertained at the time of the tender for registration, of the land to which the conveyance extends, or

(vii) in the case of a conveyance of land to a corporation where any part of the consideration consists of the allotment and issuance of the corporation's shares or in the case of a conveyance of land from a corporation to any of its shareholders the fair market value, ascertained at the time of the tender for registration, of the land to which the conveyance extends.

s. 1,
amended

(12) Section 1 of the said Act is amended by adding thereto the following subsections:

Deemed
ownership of
shares

(2a) Where a person has a right, either as an incident of ownership of a share of a corporation or otherwise under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, equity shares in a corporation, those shares shall, unless the right is contingent upon an event that it is not reasonable to expect to occur within a reasonable time or is such that a reasonable man concerned only with the value of the shares would not exercise it, be deemed to be owned by the person who has the right, and, where the shares are unissued, the shares shall be deemed to be issued and outstanding, and the shares shall be deemed to have a paid-up capital value, with respect to each share equal to,

- (a) the par value, where the shares have a par value;
- (b) the amount that would be paid with respect to each share to exercise the right under the terms of the contract, where the shares have no par value and an amount is specified in the contract; or
- (c) the market value of a share of the class of shares of that corporation that is most clearly similar to that share, where the shares have no par value and no amount is specified in the contract,

and any other person who actually owns the share in respect of which that right exists shall be deemed not to own those shares.

(2b) Where any share of a corporation, or any interest in any share of a corporation as described in subsection (2a), is owned jointly and one or more of the joint owners is a non-resident, the share or interest shall be deemed to be owned by a non-resident person.

Where one or more joint owners a non-resident

(13) Subsection 1 (4) of the said Act is amended by inserting after “notice” in the fourth line “of any kind”.

s. 1 (4), amended

(14) Section 1 of the said Act is further amended by adding thereto the following subsection:

s. 1, amended

(5) For the purposes of this Act, farming shall not be considered to be a commercial or industrial business.

Interpretation

2. Section 2 of the said Act is amended by adding thereto the following subsections:

s. 2, amended

(2a) Where there is a disposition of agricultural land within the meaning of clause (2c) (a) or (b), and where a corporation that owns the land becomes, as a result of the disposition, a non-resident corporation other than a non-resident corporation the equity shares of which have been listed and posted for trading on any stock exchange prescribed under Part XXXII of the Income Tax regulations, being chapter 945 of the Consolidated Regulations of Canada, made under the *Income Tax Act* (Canada), there shall be imposed and levied upon the agricultural land so disposed of, for the use of Her Majesty in right of Ontario, a tax computed at the rate of 20 per cent of the fair market value of the land at the time of disposition and the tax is payable to the Treasurer by the corporation that owns the land immediately upon the disposition and shall be remitted to the Minister at the time of disposition by the person responsible for its payment.

Tax imposed on dispositions

R.S.C. 1952, c. 148

Idem

(2b) Where there is a disposition of agricultural land within the meaning of clause (2c) (c), and where a trust that owns the land becomes, as the result of the disposition, a non-resident person, there shall be imposed or levied upon the agricultural land so disposed of, for the use of Her Majesty in right of Ontario, a tax computed at the rate of 20 per cent of the fair market value of the land at the time of the disposition and the tax is payable to the Treasurer immediately upon the disposition by the trust, and the trustee or other holder of the legal interest in the land shall remit the tax to the Minister out of the money or other property in his possession belonging or owing to the beneficiaries at the time of the disposition.

Dispositions
defined

(2c) In this section, a disposition of agricultural land includes,

R.S.O. 1980,
c. 31

- (a) the sale or transfer in any manner of any beneficial interest in, or the allotment and issue of, including the acquisition of an interest as described in subsection 1 (2a) of shares that are shares in the capital stock of a corporation one of the assets of which consists of any land that is assessed under the *Assessment Act*, or is actually used, as agricultural or farm land, woodlands or as an orchard, but this clause does not apply to any transfer of the beneficial interest in such shares that occurs by reason of the death of the owner of them and that is not provided for by an agreement enforceable against the corporation that issued such shares or enforceable by or against the person legally or beneficially entitled to such shares immediately following the death of the owner of them;
- (b) the amalgamation, merger, consolidation or any other like arrangement of any two or more corporations one of the assets of any one or more of which consists of any land that is assessed under the *Assessment Act*, or is actually used, as agricultural or farm land, woodlands or as an orchard; or
- (c) the sale or transfer, however effected, of any part of the beneficial interest in, any change in the entitlement to, or any accretion to, the beneficial interest in land that is assessed under the *Assessment Act*, or actually used, as agricultural or farm land, woodlands or as an orchard, including any declaration of trust where any part of the corpus of the trust is such land, but this clause does not apply to any transfer of any beneficial interest in land that occurs by reason of the death of the owner of such interest and that is

not provided for by an agreement enforceable by or against the person legally or beneficially entitled to such interest immediately following the death of the owner of it.

3.—(1) Subsection 4 (1) of the said Act is amended by striking out “such other information as the Minister may prescribe to be disclosed in the affidavit” in the eighth and ninth lines and inserting in lieu thereof “such affidavit shall state whether the transferee to whom the land is being conveyed is a non-resident person or the trustee for a non-resident person and shall contain such other information as the Minister may prescribe to be disclosed”.

s. 4 (1),
amended

(2) Subsection 4 (2) of the said Act is repealed.

s. 4 (2),
repealed

(3) Subsection 4 (3) of the said Act is amended,

s. 4 (3),
amended

(a) by striking out that portion of the subsection that precedes clause (a) and inserting in lieu thereof “The affidavit required by subsection (1) shall be made by”;

(b) by striking out “married to” in the first line of clause (g) and inserting in lieu thereof “spouses of”; and

(c) by striking out that portion of the subsection that follows clause (g).

(4) Subsection 4 (4) of the said Act is amended by striking out “or (3)” in the first line.

s. 4 (4),
amended

(5) Subsection 4 (6) of the said Act is repealed.

s. 4 (6),
repealed

(6) Subsection 4 (7) of the said Act is repealed and the following substituted therefor:

s. 4 (7),
re-enacted

(7) Notwithstanding subsection (1), no affidavit is required under that subsection on the tender for registration of a conveyance to or in trust for a transferee who is expressly named in the conveyance and who is Her Majesty in right of Ontario, Her Majesty in right of Canada or a Crown agency within the meaning of the *Crown Agency Act*.

Affidavit not
required

R.S.O. 1980,
c. 106

(7) Subsection 4 (8) of the said Act is repealed and the following substituted therefor:

s. 4 (8),
re-enacted

(8) Every person liable to pay tax under subsection 2 (2a) and every trustee or other holder of the legal interest in agricultural land with respect to which a disposition has occurred who

Returns

is liable to remit the tax out of the money or other property in his possession belonging or owing to the beneficiaries of a trust liable to pay tax under subsection 2 (2b) shall deliver a return to the Minister in such form as the Minister shall prescribe on or before the 30th day following the day when the tax becomes payable and shall remit the tax payable with the return.

Penalty for
default in
filing returns

(9) Every person who fails to deliver a return as required by subsection (8), or who fails to remit with his return the amount of tax payable, shall pay, when assessed therefor, a penalty of an amount equal to 25 per cent of the tax payable.

Extension of
time for
returns

(10) The Minister may extend the time for making the return required under subsection (8) either before or after the time for making it has expired.

Offence

(11) In addition to any penalty assessed under subsection (9), every person who has failed to deliver a return as required by subsection (8) is guilty of an offence and on conviction is liable to a fine of not less than 25 per cent of the tax payable plus, in an appropriate case, an amount of not more than the amount of tax payable.

Trustee not
personally
liable if he
deducts tax

(12) A trustee or other holder of the legal interest in agricultural land with respect to which a disposition has occurred is not, as such, personally liable for the tax levied under subsection 2 (2b), but no person in Ontario shall pay, deliver, assign or transfer to or for the benefit of the person beneficially entitled thereto any property that is vested in him as trustee or other holder of the legal interest in such property at any time after the tax levied under subsection 2 (2b) becomes payable without deducting therefrom or collecting an amount sufficient to pay the tax levied.

Penalty

(13) Every such trustee or other holder of the legal interest in agricultural land with respect to which a disposition has occurred who transfers property that is vested in him as trustee or other holder of the legal interest in such property without deducting therefrom or collecting in accordance with subsection (12) the tax payable under subsection 2 (2b) by the trust is guilty of an offence and on conviction is liable to a fine equal to 125 per cent of such tax.

Raising of
funds for tax

(14) A trustee or other holder of the legal interest in agricultural land with respect to which a disposition has occurred who is required by subsection 2 (2b) to pay tax out of the money or other property in his possession belonging or owing to the beneficiaries of a trust liable to pay tax under subsection 2 (2b), has, for the purpose of paying such tax, the power to raise the amount of such tax and any interest and expense properly

incurred by him in respect thereof, by sale, mortgage, lease or pledge, of so much property as may be necessary for such purpose.

(15) Fines imposed under this Act shall be paid to the Treasurer on behalf of Her Majesty the Queen in right of Ontario. Fines payable to Treasurer

4. Section 5 of the said Act is repealed and the following substituted therefor: s. 5, re-enacted

5. Any person who has made, or participated in, assented to or acquiesced in the making of, a false or deceptive statement in a return required under subsection 4 (8) or in a response to a demand of the Minister under subsection 8 (2) is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on conviction to a fine of the amount of the tax that, had the true facts been stated, would have been payable, plus an amount of not less than \$50 and not more than \$1,000. False statements

5.—(1) Subsection 7 (3) of the said Act is amended by striking out “notice or caution in writing signifying the existence of any” in the first and second lines and inserting in lieu thereof “caution or notice of any kind signifying the existence of any unregistered”. s. 7 (3), amended

(2) Section 7 of the said Act is amended by adding thereto the following subsection: s. 7, amended

(5) Where a person has, in accordance with this Act and the regulations, applied for a refund under this Act and his claim is in whole or in part refused, the Minister shall cause to be delivered to such person a statement of disallowance in such form as the Minister shall prescribe, and the statement shall specify the amount of the disallowance and the reasons therefor. Disallowance of refund

6.—(1) Subsection 11 (1) of the said Act is repealed and the following substituted therefor: s. 11 (1), re-enacted

(1) Where a person objects to an assessment made under section 10 or a statement of disallowance made under subsection 7 (5), he may, within ninety days after the day of mailing or delivery by personal service of the notice of assessment or statement of disallowance, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts. Notice of objection

(2) Subsection 11 (3) of the said Act is repealed and the following substituted therefor: s. 11 (3), re-enacted

Reconsideration

(3) Upon receipt of a notice of objection, the Minister shall with all due despatch reconsider the assessment or statement of disallowance and vacate, confirm or vary the assessment or statement of disallowance or reassess or serve a fresh statement of disallowance and he shall thereupon notify the person who has made the objection of his action by registered mail.

s. 12 (1),
re-enacted

7.—(1) Subsection 12 (1) of the said Act is repealed and the following substituted therefor:

Appeal

(1) After the Minister has given the notification required by subsection 11 (3), a person who has served notice of objection under section 11 may appeal to the Supreme Court to have the assessment or the statement of disallowance vacated or varied or reassessed or a fresh statement of disallowance issued, but no appeal under this section shall be instituted after the expiration of ninety days from the day on which notice has been mailed to such person under subsection 11 (3).

s. 12 (7),
amended

(2) Subsection 12 (7) of the said Act is amended by striking out “to vacate the assessment, vary the assessment or reconsider the assessment and reassess” in the third and fourth lines and inserting in lieu thereof “to vacate, vary or reconsider the assessment or statement of disallowance and reassess or issue a fresh statement of disallowance”.

s. 13 (1) (b),
amended

8.—(1) Clause 13 (1) (b) of the said Act is amended by striking out “interest and penalty or any of them” in the fifth line.

s. 13,
amended

(2) Section 13 of the said Act is amended by adding thereto the following subsections:

Lien on real
property in
respect of
taxes

(1a) All taxes, costs and other amounts imposed under this Act are, upon the registration by the Minister in the proper land registry office of a notice claiming the first lien and charge conferred by this subsection, a first lien and charge upon any real property in Ontario or any interest therein of the person liable to pay such taxes, costs and other amounts, and such first lien and charge has priority over all encumbrances or claims registered or attaching to the subject property subsequent to the registration of the notice.

Where a
person is not
a registered
owner

(1b) Where a person has an interest in real property but is not shown as the registered owner thereof in the proper land registry office,

(a) the notice to be registered under subsection (1a) shall recite the interest of the person in the real property; and

- (b) a copy of the notice registered under subsection (1a) shall be sent to the registered owner at his address to which the latest notice of assessment under the *Assessment Act* has been sent. R.S.O. 1980, c. 31

9.—(1) Subsection 15 (1) of the said Act is repealed and the following substituted therefor: s. 15 (1), re-enacted

(1) Where the tax imposed by section 2 or any penalty under subsection 4 (9) is not paid at the time provided for, interest on the unpaid amount shall be paid to the Treasurer at such rate as is prescribed by the Lieutenant Governor in Council and the Lieutenant Governor in Council may also prescribe the method by which such interest is to be calculated, but no interest is payable for any period of time prior to the 10th day of April, 1974. Interest on unpaid tax

(2) Subsection 15 (2) of the said Act is repealed. s. 15 (2), repealed

10. Section 16 of the said Act is repealed and the following substituted therefor: s. 16, re-enacted

16.—(1) Where tax may be payable on the registration of a conveyance of land to a non-resident person, and that person satisfies the Minister prior to the registration of the conveyance that the land was or is to be acquired, Deferral of tax on certain conveyances to non-residents

- (a) by a non-resident person who undertakes to the Minister to develop and resell the land for residential, commercial or industrial purposes not later than five years after the date of the grant of the deferral under this section;
- (b) by a non-resident person who undertakes to the Minister to establish, expand or relocate any active commercial or industrial business that is or will be carried on by the non-resident person, and the non-resident person undertakes to obtain any zoning changes necessary to permit the land to be used as proposed within the time agreed to by the Minister, and to complete the establishment, expansion or relocation within the time agreed to by the Minister, but the time for completing the establishment, expansion or relocation shall not exceed five years from the date of the grant of the deferral under this section;
- (c) by a non-resident person who is a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person not later than five years after the date of the grant of the deferral under this section;

- (d) by a non-resident person who is acquiring the land from a transferor with whom he deals at arm's length as a result of a final order of foreclosure under a mortgage or charge affecting the land or in satisfaction of the obligations of the transferor to the transferee under a mortgage or charge affecting the land which is in default and who undertakes to the Minister to resell the land not later than five years after the date of the grant of the deferral under this section; or
- (e) by a non-resident person who is an individual other than a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person within two years after the date of the grant of the deferral under this section,

the Minister may defer the payment by the non-resident person of that portion of the tax imposed by subsection 2 (2) which exceeds the tax imposed by subsection 2 (1), on condition that security in a form and of a kind acceptable to the Minister is furnished to the Minister for the performance of the undertakings given by the non-resident person.

Rebate of tax
on certain
conveyances
to non-
residents

(2) Where the tax imposed by subsection 2 (2) has been paid on the registration of a conveyance of land to a non-resident person, the Minister may rebate and provide a deferral of that portion of the tax imposed by subsection 2 (2) which exceeds the tax imposed by subsection 2 (1), if the land was acquired and still owned by,

- (a) a non-resident person who undertakes to the Minister to develop and resell the land for residential, commercial or industrial purposes not later than five years after the date of the registration of the conveyance;
- (b) a non-resident person who undertakes to the Minister to establish, expand or relocate any active commercial or industrial business that is or will be carried on by the non-resident person and the non-resident person undertakes to obtain any zoning changes necessary to permit the land to be used as proposed within the time agreed to by the Minister and to complete the establishment, expansion or relocation within the time agreed to by the Minister, but the time for completing the establishment, expansion or relocation shall not exceed five years from the date of the registration of the conveyance;

- (c) by a non-resident person who is a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person not later than five years after the date of the registration of the conveyance;
- (d) by a non-resident person who acquired the land from a transferor with whom he deals at arm's length as a result of a final order of foreclosure under a mortgage or charge affecting the land or in satisfaction of the obligations of the transferor to the transferee under a mortgage or charge affecting the land which was in default and who undertakes to the Minister to resell the land not later than five years after the date of the registration of the conveyance; or
- (e) by a non-resident person who is an individual other than a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person within two years after the date of the registration of the conveyance,

and on the condition that security in a form and of a kind acceptable to the Minister is furnished to the Minister for the performance of the undertakings given by the non-resident person.

(3) No rebate or deferral of tax may be granted under subsection (2) unless application is made therefor by the non-resident person not later than six months after the registration of the conveyance of the land to him. Idem

(4) Where the Minister is satisfied that a person has performed the conditions undertaken by him under subsection (1) or (2), the Minister shall return to the person the security furnished in respect of the deferral granted and the amount of tax deferred is thereupon cancelled and no longer owing as tax under this Act. Deferred tax cancelled

(5) Where a person fails to perform the conditions undertaken by him under subsection (1) or (2) to the satisfaction of the Minister, the amount of the tax deferred under subsection (1) or (2) shall become immediately due and payable together with interest thereon at the prescribed rate calculated from the date of registration of the conveyance of the land to the person, and the Minister may enforce the security furnished by the person and apply the proceeds towards the amount owed under this Act. Deferred tax collected

(6) Notwithstanding subsection (5), the Minister may extend the time for fulfilling any undertaking given by a non-resident Extension of time

person under subsection (1) or (2), upon terms and conditions acceptable to the Minister, for a period of time not exceeding one year.

Idem

(7) The Minister may at such time or times as he considers advisable publish in *The Ontario Gazette* the particulars of a deferral of tax or extension of deferral given under this section.

Reduction of
tax on land
acquired for
principal
residence

(8) Where it is established to the satisfaction of the Minister that land will be acquired by a non-resident person,

- (a) who is a Canadian citizen, or the spouse of a Canadian citizen, for the purpose of using the land only for the principal residence or principal recreational property of the Canadian citizen or his spouse upon the return of either of them to Canada to take up permanent residence; or
- (b) who is an employer, for the principal purpose of selling the land to an employee, or to any employee and his spouse, to be used only as the residence of the employee and members of his family or of his usual domestic establishment, or for the principal purpose of making the land available for the exclusive use of his employees and members of their families, or of their usual domestic establishments, as a place of residence only,

the Minister may cancel that portion of the tax imposed by subsection 2 (2) which exceeds the tax imposed by subsection 2 (1).

Reduction of
consideration
on land
acquired to
replace land
compulsorily
taken

(9) Where it is established to the satisfaction of the Minister that land is being acquired by a person for the purpose of replacing land that was taken from him under statutory authority, that was sold by him to a person by whom notice of an intention to take the land under statutory authority was given, or that was sold by him to a person having the power to take the land under statutory authority and it is reasonable to assume that, had the land not been sold, it would have been taken from him by that person under statutory authority, the value of the consideration for the land being acquired shall be reduced by an amount equal to the compensation or proceeds of sale reasonably attributable to the land that was taken or sold.

Reduction of
consideration
on lessee
acquiring
freehold

(10) Where a person entitled to the leasehold interest in land acquires the freehold interest therein, the value of the consideration for the conveyance to the person of the freehold interest may be reduced by the amount of the value of the consideration for the conveyance by which the person acquired his leasehold

interest in the land, if the value of that consideration was determined under subclause 1 (1) (p) (iii) and tax was computed and paid with respect to the value of that consideration so determined, but the reduction shall not exceed the value of the consideration for the conveyance of the freehold interest.

11. The said Act is amended by adding thereto the following section: s. 17a,
enacted

17a. If any doubt or dispute arises as to the liability to pay a tax or any portion of a tax demanded under the authority of this Act, or if owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed by this Act, the Minister may accept such amount as he deems proper. Resolving
disputes

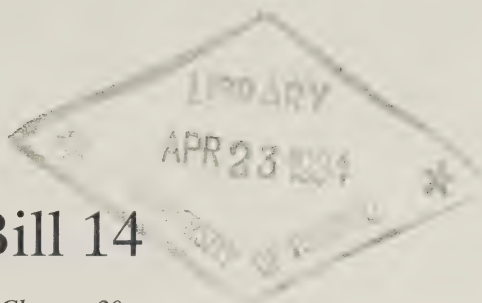
12.—(1) This Act, except for subsections 1 (1), (5) and (12), section 2, subsection 3 (7) and section 4, comes into force on the day it receives Royal Assent. Commence-
ment and
application

(2) Subsections 1 (1), (5) and (12), section 2, subsection 3 (7) and section 4 shall be deemed to have come into force on the 21st day of April, 1983. Idem

(3) For dispositions occurring on or before the day this Act receives Royal Assent, the return required to be delivered to the Minister under subsection 4 (8) of the *Land Transfer Tax Act*, as re-enacted by subsection 3 (7) of this Act, shall be delivered on or before the 30th day following the day this Act receives Royal Assent. Idem
R.S.O. 1980,
c. 231

(4) Provided that no disposition of agricultural land described in subsection 2 (2c) of the *Land Transfer Tax Act*, as enacted by section 2 of this Act, has occurred, no tax is payable where a corporation or trust becomes a non-resident person as a result of the amendments contained in section 1 of this Act, and no tax is payable with respect to any disposition of agricultural land that occurred before the 21st day of April, 1983. Idem

13. The short title of this Act is the *Land Transfer Tax Amendment Act, 1983*. Short title



Bill 14

*(Chapter 20
Statutes of Ontario, 1983)*

An Act to amend the Land Transfer Tax Act

The Hon. G. L. Ashe
Minister of Revenue

<i>1st Reading</i>	April 21st, 1983
<i>2nd Reading</i>	May 24th, 1983
<i>3rd Reading</i>	May 26th, 1983
<i>Royal Assent</i>	May 26th, 1983

Bill 14

1983

An Act to amend the Land Transfer Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 (1) of the *Land Transfer Tax Act*, being chapter 231 of the Revised Statutes of Ontario, 1980, is amended by relettering clause (a) as clause (aa) and by adding thereto the following clause:

s. 1 (1),
amended

- (a) “associate”, where used to indicate a relationship with any person or company means,
 - (i) any company of which such person or company beneficially owns, directly or indirectly, voting securities carrying more than 10 per cent of the voting rights attached to all voting securities of the company for the time being outstanding,
 - (ii) any partner of that person or company,
 - (iii) any trust or estate in which such person or company has a substantial beneficial interest or as to which such person or company serves as trustee or in a similar capacity,
 - (iv) the spouse or any parent, son or daughter, brother or sister of that person, or
 - (v) any relative of such person or of his spouse who has the same home as such person.

(2) Clause 1 (1) (b) of the said Act is amended by inserting after “Ontario” in the fifth line “or the registration of a caution or notice of any kind signifying the existence of an unregistered instrument or writing by which land is conveyed”.

s. 1 (1) (b),
amended

(3) Clause 1 (1) (c) of the said Act is amended by striking out “notice or caution” in the fourth line and inserting in lieu thereof “caution or notice of any kind”.

s. 1 (1) (c),
amended

s. 1 (1) (f) (ii),
amended

(4) Subclause 1 (1) (f) (ii) of the said Act is amended by inserting after “person” in the fifth line “or by that person and one or more persons who are associates of that person and who are themselves non-resident persons” and by inserting after “person” in the eighth line “or group of non-resident persons”.

s. 1 (1) (f),
amended

(5) Clause 1 (1) (f) of the said Act is amended by striking out “or” at the end of subclause (iv) and by adding thereto the following subclauses:

(vi) one-quarter or more of the paid-up capital of which is held by a non-resident person or by that person and one or more persons who are associates of that person and who are themselves non-resident persons,

(vii) one-half or more of the paid-up capital of which is held by one or more non-resident persons,

(viii) that would be required on dissolving, winding-up, or any other distribution that is not a dividend, to distribute one-quarter or more of its surplus to a non-resident person or to that person and one or more persons who are associates of that person and who are themselves non-resident persons, or

(ix) that would be required on dissolving, winding-up, or any other distribution of surplus that is not a dividend, to distribute one-half or more of its surplus to one or more non-resident persons.

s. 1 (1),
amended

(6) Subsection 1 (1) of the said Act is further amended by adding thereto the following clauses:

(ga) “notice of any kind” includes a recital or reference made in any registered instrument;

.

(ja) “spouse” means spouse as defined in clause 14 (b) of the *Family Law Reform Act*.

R.S.O. 1980,
c. 152

s. 1 (1) (k),
re-enacted

(7) Clause 1 (1) (k) of the said Act is repealed and the following substituted therefor:

- (k) “tax” means the tax imposed by this Act and includes all penalties and interest that are or may be added to a tax under this Act.

(8) Sub-subclause 1 (1) (p) (ii) (A) of the said Act is repealed and the following substituted therefor:

s. 1 (1) (p)
(ii) (A),
re-enacted

- (A) the value of the consideration determined under subclause (i) plus the amount owed under the mortgage or charge at the time it is foreclosed, including principal, interest and all other costs and expenses other than municipal taxes, secured by the mortgage or charge and owing at the time plus the amount owing similarly calculated under any mortgage or charge that is subsequent in priority to the mortgage or charge in respect of which the final order of foreclosure is made and that is held by the mortgagee or chargee in whose favour the final order of foreclosure that is registered is made, or

(9) Subclause 1 (1) (p) (iii) of the said Act is amended by striking out “a notice in writing signifying the existence of a lease of land or of a transfer” in the third and fourth lines and inserting in lieu thereof “a notice of any kind in writing signifying the existence of an unregistered lease of land or of an unregistered transfer”.

s. 1 (1) (p)
(iii), amended

(10) Subclause 1 (1) (p) (iv) of the said Act is repealed and the following substituted therefor:

s. 1 (1) (p)
(iv), re-enacted

- (iv) in the case of a caution or notice of any kind in writing signifying the existence of any unregistered instrument or writing by which land is conveyed and that is not a notice in writing described in subclause (iii), the value of the consideration determined under subclause (i) or (ii) for the land conveyed by the unregistered instrument or writing that is referred to in such caution or notice in writing that is not a notice in writing described in subclause (iii).

(11) Clause 1 (1) (p) of the said Act is amended by adding thereto the following subclauses:

s. 1 (1) (p),
amended

(vi) in the case of a conveyance of land from a trustee to another trustee (whether or not either trustee is so described in the conveyance) where,

(A) the person to whom or for whose benefit any equitable or beneficial interest in the land is held is not the same person to whom or for whose benefit any equitable or beneficial interest in the land was held by the trustee making the conveyance when that trustee first acquired his legal interest in the land, and

(B) valuable consideration has been given by the transferee of an equitable or beneficial interest for the transfer of any equitable or beneficial interest in the land held by the trustee making the conveyance while that trustee was the holder of the legal interest in the land,

the fair market value, ascertained at the time of the tender for registration, of the land to which the conveyance extends, or

(vii) in the case of a conveyance of land to a corporation where any part of the consideration consists of the allotment and issuance of the corporation's shares or in the case of a conveyance of land from a corporation to any of its shareholders the fair market value, ascertained at the time of the tender for registration, of the land to which the conveyance extends.

s. 1,
amended

(12) Section 1 of the said Act is amended by adding thereto the following subsections:

Deemed
ownership of
shares

(2a) Where a person has a right, either as an incident of ownership of a share of a corporation or otherwise under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, equity shares in a corporation, those shares shall, unless the right is contingent upon an event that it is not reasonable to expect to occur within a reasonable time or is such that a reasonable man concerned only with the value of the shares would not exercise it, be deemed to be owned by the person who has the right, and, where the shares are unissued, the shares shall be deemed to be issued and outstanding, and the shares shall be deemed to

have a paid-up capital value, with respect to each share equal to,

- (a) the par value, where the shares have a par value;
- (b) the amount that would be paid with respect to each share to exercise the right under the terms of the contract, where the shares have no par value and an amount is specified in the contract; or
- (c) the market value of a share of the class of shares of that corporation that is most clearly similar to that share, where the shares have no par value and no amount is specified in the contract,

and any other person who actually owns the share in respect of which that right exists shall be deemed not to own those shares.

(2b) Where any share of a corporation, or any interest in any share of a corporation as described in subsection (2a), is owned jointly and one or more of the joint owners is a non-resident, the share or interest shall be deemed to be owned by a non-resident person.

Where one or more joint owners a non-resident

(13) Subsection 1 (4) of the said Act is amended by inserting after “notice” in the fourth line “of any kind”.

s. 1 (4), amended

(14) Section 1 of the said Act is further amended by adding thereto the following subsection:

s. 1, amended

(5) For the purposes of this Act, farming shall not be considered to be a commercial or industrial business.

Interpretation

2. Section 2 of the said Act is amended by adding thereto the following subsections:

s. 2, amended

(2a) Where there is a disposition of agricultural land within the meaning of clause (2c) (a) or (b), and where a corporation that owns the land becomes, as a result of the disposition, a non-resident corporation other than a non-resident corporation the equity shares of which have been listed and posted for trading on any stock exchange prescribed under Part XXXII of the Income Tax regulations, being chapter 945 of the Consolidated Regulations of Canada, made under the *Income Tax Act* (Canada), there shall be imposed and levied upon the agricultural land so disposed of, for the use of Her Majesty in right of Ontario, a tax computed at the rate of 20 per cent of the fair market value of the land at the time of disposition and the tax is payable to the Treasurer by the corporation that owns the land immediately upon the disposition and shall be remitted to the

Tax imposed on dispositions

R.S.C. 1952, c. 148

Minister at the time of disposition by the person responsible for its payment.

Idem

(2b) Where there is a disposition of agricultural land within the meaning of clause (2c) (c), and where a trust that owns the land becomes, as the result of the disposition, a non-resident person, there shall be imposed or levied upon the agricultural land so disposed of, for the use of Her Majesty in right of Ontario, a tax computed at the rate of 20 per cent of the fair market value of the land at the time of the disposition and the tax is payable to the Treasurer immediately upon the disposition by the trust, and the trustee or other holder of the legal interest in the land shall remit the tax to the Minister out of the money or other property in his possession belonging or owing to the beneficiaries at the time of the disposition.

Dispositions
defined

(2c) In this section, a disposition of agricultural land includes,

R.S.O. 1980,
c. 31

- (a) the sale or transfer in any manner of any beneficial interest in, or the allotment and issue of, including the acquisition of an interest as described in subsection 1 (2a) of shares that are shares in the capital stock of a corporation one of the assets of which consists of any land that is assessed under the *Assessment Act*, or is actually used, as agricultural or farm land, woodlands or as an orchard, but this clause does not apply to any transfer of the beneficial interest in such shares that occurs by reason of the death of the owner of them and that is not provided for by an agreement enforceable against the corporation that issued such shares or enforceable by or against the person legally or beneficially entitled to such shares immediately following the death of the owner of them;
- (b) the amalgamation, merger, consolidation or any other like arrangement of any two or more corporations one of the assets of any one or more of which consists of any land that is assessed under the *Assessment Act*, or is actually used, as agricultural or farm land, woodlands or as an orchard; or
- (c) the sale or transfer, however effected, of any part of the beneficial interest in, any change in the entitlement to, or any accretion to, the beneficial interest in land that is assessed under the *Assessment Act*, or actually used, as agricultural or farm land, woodlands or as an orchard, including any declaration of trust where any part of the corpus of the trust is such

land, but this clause does not apply to any transfer of any beneficial interest in land that occurs by reason of the death of the owner of such interest and that is not provided for by an agreement enforceable by or against the person legally or beneficially entitled to such interest immediately following the death of the owner of it.

3.—(1) Subsection 4 (1) of the said Act is amended by striking out “such other information as the Minister may prescribe to be disclosed in the affidavit” in the eighth and ninth lines and inserting in lieu thereof “such affidavit shall state whether the transferee to whom the land is being conveyed is a non-resident person or the trustee for a non-resident person and shall contain such other information as the Minister may prescribe to be disclosed”.

s. 4 (1),
amended

(2) Subsection 4 (2) of the said Act is repealed.

s. 4 (2),
repealed

(3) Subsection 4 (3) of the said Act is amended,

s. 4 (3),
amended

(a) by striking out that portion of the subsection that precedes clause (a) and inserting in lieu thereof “The affidavit required by subsection (1) shall be made by”;

(b) by striking out “married to” in the first line of clause (g) and inserting in lieu thereof “spouses of”; and

(c) by striking out that portion of the subsection that follows clause (g).

(4) Subsection 4 (4) of the said Act is amended by striking out “or (3)” in the first line.

s. 4 (4),
amended

(5) Subsection 4 (6) of the said Act is repealed.

s. 4 (6),
repealed

(6) Subsection 4 (7) of the said Act is repealed and the following substituted therefor:

s. 4 (7),
re-enacted

(7) Notwithstanding subsection (1), no affidavit is required under that subsection on the tender for registration of a conveyance to or in trust for a transferee who is expressly named in the conveyance and who is Her Majesty in right of Ontario, Her Majesty in right of Canada or a Crown agency within the meaning of the *Crown Agency Act*.

Affidavit not
required

R.S.O. 1980,
c. 106

(7) Subsection 4 (8) of the said Act is repealed and the following substituted therefor:

s. 4 (8),
re-enacted

Returns

(8) Every person liable to pay tax under subsection 2 (2a) and every trustee or other holder of the legal interest in agricultural land with respect to which a disposition has occurred who is liable to remit the tax out of the money or other property in his possession belonging or owing to the beneficiaries of a trust liable to pay tax under subsection 2 (2b) shall deliver a return to the Minister in such form as the Minister shall prescribe on or before the 30th day following the day when the tax becomes payable and shall remit the tax payable with the return.

Penalty for default in filing returns

(9) Every person who fails to deliver a return as required by subsection (8), or who fails to remit with his return the amount of tax payable, shall pay, when assessed therefor, a penalty of an amount equal to 25 per cent of the tax payable.

Extension of time for returns

(10) The Minister may extend the time for making the return required under subsection (8) either before or after the time for making it has expired.

Offence

(11) In addition to any penalty assessed under subsection (9), every person who has failed to deliver a return as required by subsection (8) is guilty of an offence and on conviction is liable to a fine of not less than 25 per cent of the tax payable plus, in an appropriate case, an amount of not more than the amount of tax payable.

Trustee not personally liable if he deducts tax

(12) A trustee or other holder of the legal interest in agricultural land with respect to which a disposition has occurred is not, as such, personally liable for the tax levied under subsection 2 (2b), but no person in Ontario shall pay, deliver, assign or transfer to or for the benefit of the person beneficially entitled thereto any property that is vested in him as trustee or other holder of the legal interest in such property at any time after the tax levied under subsection 2 (2b) becomes payable without deducting therefrom or collecting an amount sufficient to pay the tax levied.

Penalty

(13) Every such trustee or other holder of the legal interest in agricultural land with respect to which a disposition has occurred who transfers property that is vested in him as trustee or other holder of the legal interest in such property without deducting therefrom or collecting in accordance with subsection (12) the tax payable under subsection 2 (2b) by the trust is guilty of an offence and on conviction is liable to a fine equal to 125 per cent of such tax.

Raising of funds for tax

(14) A trustee or other holder of the legal interest in agricultural land with respect to which a disposition has occurred who is required by subsection 2 (2b) to pay tax out of the money or other property in his possession belonging or owing to the

beneficiaries of a trust liable to pay tax under subsection 2 (2b), has, for the purpose of paying such tax, the power to raise the amount of such tax and any interest and expense properly incurred by him in respect thereof, by sale, mortgage, lease or pledge, of so much property as may be necessary for such purpose.

(15) Fines imposed under this Act shall be paid to the Treasurer on behalf of Her Majesty the Queen in right of Ontario.

Fines payable
to Treasurer

4. Section 5 of the said Act is repealed and the following substituted therefor:

s. 5,
re-enacted

5. Any person who has made, or participated in, assented to or acquiesced in the making of, a false or deceptive statement in a return required under subsection 4 (8) or in a response to a demand of the Minister under subsection 8 (2) is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on conviction to a fine of the amount of the tax that, had the true facts been stated, would have been payable, plus an amount of not less than \$50 and not more than \$1,000.

False
statements

5.—(1) Subsection 7 (3) of the said Act is amended by striking out “notice or caution in writing signifying the existence of any” in the first and second lines and inserting in lieu thereof “caution or notice of any kind signifying the existence of any unregistered”.

s. 7 (3),
amended

(2) Section 7 of the said Act is amended by adding thereto the following subsection:

s. 7,
amended

(5) Where a person has, in accordance with this Act and the regulations, applied for a refund under this Act and his claim is in whole or in part refused, the Minister shall cause to be delivered to such person a statement of disallowance in such form as the Minister shall prescribe, and the statement shall specify the amount of the disallowance and the reasons therefor.

Disallowance
of refund

6.—(1) Subsection 11 (1) of the said Act is repealed and the following substituted therefor:

s. 11 (1),
re-enacted

(1) Where a person objects to an assessment made under section 10 or a statement of disallowance made under subsection 7 (5), he may, within ninety days after the day of mailing or delivery by personal service of the notice of assessment or statement of disallowance, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

Notice of
objection

s. 11 (3),
re-enacted

(2) Subsection 11 (3) of the said Act is repealed and the following substituted therefor:

Reconsi-
deration

(3) Upon receipt of a notice of objection, the Minister shall with all due despatch reconsider the assessment or statement of disallowance and vacate, confirm or vary the assessment or statement of disallowance or reassess or serve a fresh statement of disallowance and he shall thereupon notify the person who has made the objection of his action by registered mail.

s. 12 (1),
re-enacted

7.—(1) Subsection 12 (1) of the said Act is repealed and the following substituted therefor:

Appeal

(1) After the Minister has given the notification required by subsection 11 (3), a person who has served notice of objection under section 11 may appeal to the Supreme Court to have the assessment or the statement of disallowance vacated or varied or reassessed or a fresh statement of disallowance issued, but no appeal under this section shall be instituted after the expiration of ninety days from the day on which notice has been mailed to such person under subsection 11 (3).

s. 12 (7),
amended

(2) Subsection 12 (7) of the said Act is amended by striking out “to vacate the assessment, vary the assessment or reconsider the assessment and reassess” in the third and fourth lines and inserting in lieu thereof “to vacate, vary or reconsider the assessment or statement of disallowance and reassess or issue a fresh statement of disallowance”.

s. 13 (1) (b),
amended

8.—(1) Clause 13 (1) (b) of the said Act is amended by striking out “interest and penalty or any of them” in the fifth line.

s. 13,
amended

(2) Section 13 of the said Act is amended by adding thereto the following subsections:

Lien on real
property in
respect of
taxes

(1a) All taxes, costs and other amounts imposed under this Act are, upon the registration by the Minister in the proper land registry office of a notice claiming the first lien and charge conferred by this subsection, a first lien and charge upon any real property in Ontario or any interest therein of the person liable to pay such taxes, costs and other amounts, and such first lien and charge has priority over all encumbrances or claims registered or attaching to the subject property subsequent to the registration of the notice.

Where a
person is not
a registered
owner

(1b) Where a person has an interest in real property but is not shown as the registered owner thereof in the proper land registry office,

- (a) the notice to be registered under subsection (1a) shall recite the interest of the person in the real property; and
- (b) a copy of the notice registered under subsection (1a) shall be sent to the registered owner at his address to which the latest notice of assessment under the *Assessment Act* has been sent.

R.S.O. 1980,
c. 31

9.—(1) Subsection 15 (1) of the said Act is repealed and the following substituted therefor:

s. 15 (1),
re-enacted

(1) Where the tax imposed by section 2 or any penalty under subsection 4 (9) is not paid at the time provided for, interest on the unpaid amount shall be paid to the Treasurer at such rate as is prescribed by the Lieutenant Governor in Council and the Lieutenant Governor in Council may also prescribe the method by which such interest is to be calculated, but no interest is payable for any period of time prior to the 10th day of April, 1974.

Interest on
unpaid tax

(2) Subsection 15 (2) of the said Act is repealed.

s. 15 (2),
repealed

10. Section 16 of the said Act is repealed and the following substituted therefor:

s. 16,
re-enacted

16.—(1) Where tax may be payable on the registration of a conveyance of land to a non-resident person, and that person satisfies the Minister prior to the registration of the conveyance that the land was or is to be acquired,

Deferral of
tax on certain
conveyances
to non-
residents

- (a) by a non-resident person who undertakes to the Minister to develop and resell the land for residential, commercial or industrial purposes not later than five years after the date of the grant of the deferral under this section;
- (b) by a non-resident person who undertakes to the Minister to establish, expand or relocate any active commercial or industrial business that is or will be carried on by the non-resident person, and the non-resident person undertakes to obtain any zoning changes necessary to permit the land to be used as proposed within the time agreed to by the Minister, and to complete the establishment, expansion or relocation within the time agreed to by the Minister, but the time for completing the establishment, expansion or relocation shall not exceed five years from the date of the grant of the deferral under this section;

- (c) by a non-resident person who is a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person not later than five years after the date of the grant of the deferral under this section;
- (d) by a non-resident person who is acquiring the land from a transferor with whom he deals at arm's length as a result of a final order of foreclosure under a mortgage or charge affecting the land or in satisfaction of the obligations of the transferor to the transferee under a mortgage or charge affecting the land which is in default and who undertakes to the Minister to resell the land not later than five years after the date of the grant of the deferral under this section; or
- (e) by a non-resident person who is an individual other than a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person within two years after the date of the grant of the deferral under this section,

the Minister may defer the payment by the non-resident person of that portion of the tax imposed by subsection 2 (2) which exceeds the tax imposed by subsection 2 (1), on condition that security in a form and of a kind acceptable to the Minister is furnished to the Minister for the performance of the undertakings given by the non-resident person.

Rebate of tax
on certain
conveyances
to non-
residents

(2) Where the tax imposed by subsection 2 (2) has been paid on the registration of a conveyance of land to a non-resident person, the Minister may rebate and provide a deferral of that portion of the tax imposed by subsection 2 (2) which exceeds the tax imposed by subsection 2 (1), if the land was acquired and still owned by,

- (a) a non-resident person who undertakes to the Minister to develop and resell the land for residential, commercial or industrial purposes not later than five years after the date of the registration of the conveyance;
- (b) a non-resident person who undertakes to the Minister to establish, expand or relocate any active commercial or industrial business that is or will be carried on by the non-resident person and the non-resident person undertakes to obtain any zoning changes necessary to permit the land to be used as proposed within the time agreed to by the Minister and to complete the establishment, expansion or relocation within the time agreed to by the Minister, but the

time for completing the establishment, expansion or relocation shall not exceed five years from the date of the registration of the conveyance;

- (c) by a non-resident person who is a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person not later than five years after the date of the registration of the conveyance;
- (d) by a non-resident person who acquired the land from a transferor with whom he deals at arm's length as a result of a final order of foreclosure under a mortgage or charge affecting the land or in satisfaction of the obligations of the transferor to the transferee under a mortgage or charge affecting the land which was in default and who undertakes to the Minister to resell the land not later than five years after the date of the registration of the conveyance; or
- (e) by a non-resident person who is an individual other than a Canadian citizen and who undertakes to the Minister to cease to be a non-resident person within two years after the date of the registration of the conveyance,

and on the condition that security in a form and of a kind acceptable to the Minister is furnished to the Minister for the performance of the undertakings given by the non-resident person.

(3) No rebate or deferral of tax may be granted under subsection (2) unless application is made therefor by the non-resident person not later than six months after the registration of the conveyance of the land to him. Idem

(4) Where the Minister is satisfied that a person has performed the conditions undertaken by him under subsection (1) or (2), the Minister shall return to the person the security furnished in respect of the deferral granted and the amount of tax deferred is thereupon cancelled and no longer owing as tax under this Act. Deferred tax cancelled

(5) Where a person fails to perform the conditions undertaken by him under subsection (1) or (2) to the satisfaction of the Minister, the amount of the tax deferred under subsection (1) or (2) shall become immediately due and payable together with interest thereon at the prescribed rate calculated from the date of registration of the conveyance of the land to the person, and the Minister may enforce the security furnished by the per- Deferred tax collected

son and apply the proceeds towards the amount owed under this Act.

Extension of
time

(6) Notwithstanding subsection (5), the Minister may extend the time for fulfilling any undertaking given by a non-resident person under subsection (1) or (2), upon terms and conditions acceptable to the Minister, for a period of time not exceeding one year.

Idem

(7) The Minister may at such time or times as he considers advisable publish in *The Ontario Gazette* the particulars of a deferral of tax or extension of deferral given under this section.

Reduction of
tax on land
acquired for
principal
residence

(8) Where it is established to the satisfaction of the Minister that land will be acquired by a non-resident person,

- (a) who is a Canadian citizen, or the spouse of a Canadian citizen, for the purpose of using the land only for the principal residence or principal recreational property of the Canadian citizen or his spouse upon the return of either of them to Canada to take up permanent residence; or
- (b) who is an employer, for the principal purpose of selling the land to an employee, or to any employee and his spouse, to be used only as the residence of the employee and members of his family or of his usual domestic establishment, or for the principal purpose of making the land available for the exclusive use of his employees and members of their families, or of their usual domestic establishments, as a place of residence only,

the Minister may cancel that portion of the tax imposed by subsection 2 (2) which exceeds the tax imposed by subsection 2 (1).

Reduction of
consideration
on land
acquired to
replace land
compulsorily
taken

(9) Where it is established to the satisfaction of the Minister that land is being acquired by a person for the purpose of replacing land that was taken from him under statutory authority, that was sold by him to a person by whom notice of an intention to take the land under statutory authority was given, or that was sold by him to a person having the power to take the land under statutory authority and it is reasonable to assume that, had the land not been sold, it would have been taken from him by that person under statutory authority, the value of the consideration for the land being acquired shall be reduced by an amount equal to the compensation or proceeds of sale reasonably attributable to the land that was taken or sold.

(10) Where a person entitled to the leasehold interest in land acquires the freehold interest therein, the value of the consideration for the conveyance to the person of the freehold interest may be reduced by the amount of the value of the consideration for the conveyance by which the person acquired his leasehold interest in the land, if the value of that consideration was determined under subclause 1 (1) (p) (iii) and tax was computed and paid with respect to the value of that consideration so determined, but the reduction shall not exceed the value of the consideration for the conveyance of the freehold interest.

Reduction of consideration on lessee acquiring freehold

11. The said Act is amended by adding thereto the following section:

s. 17a,
enacted

17a. If any doubt or dispute arises as to the liability to pay a tax or any portion of a tax demanded under the authority of this Act, or if owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed by this Act, the Minister may accept such amount as he deems proper.

Resolving disputes

12.—(1) This Act, except subsections 1 (1), (5) and (12), section 2, subsection 3 (7) and section 4, comes into force on the day it receives Royal Assent.

Commencement and application

(2) Subsections 1 (1), (5) and (12), section 2, subsection 3 (7) and section 4 shall be deemed to have come into force on the 21st day of April, 1983.

Idem

(3) For dispositions occurring on or before the day this Act receives Royal Assent, the return required to be delivered to the Minister under subsection 4 (8) of the *Land Transfer Tax Act*, as re-enacted by subsection 3 (7) of this Act, shall be delivered on or before the thirtieth day following the day this Act receives Royal Assent.

Idem

R.S.O. 1980,
c. 231

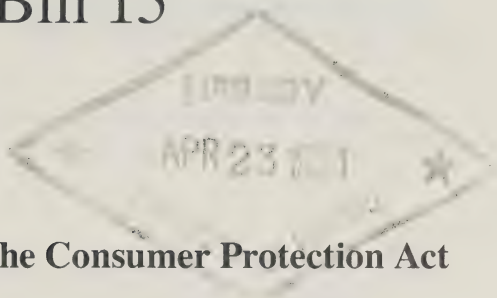
(4) Provided that no disposition of agricultural land described in subsection 2 (2c) of the *Land Transfer Tax Act*, as enacted by section 2 of this Act, has occurred, no tax is payable where a corporation or trust becomes a non-resident person as a result of the amendments contained in section 1 of this Act, and no tax is payable with respect to any disposition of agricultural land that occurred before the 21st day of April, 1983.

Idem

13. The short title of this Act is the *Land Transfer Tax Amendment Act, 1983*.

Short title

Bill 15



An Act to amend the Consumer Protection Act

Mr. Newman

1st Reading April 21st, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

This Bill requires that every product offered for sale by a retailer that is marked with the universal product code must also be clearly marked with its individual purchase price.

Bill 15

1983

An Act to amend the Consumer Protection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Consumer Protection Act*, being chapter 87 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

s. 38a,
enacted

38a.—(1) In this section,

Interpre-
tation

- (a) “computer code” means a marking that is designed to be read and recorded by a computer device for the purpose of calculating the purchase price of a product offered for sale and includes the universal product code;
- (b) “product” means an item of goods;
- (c) “retail seller” means a person who offers a product for sale but not for resale.

(2) No retail seller shall offer for sale a product that is marked with a computer code unless the individual purchase price of such product is clearly expressed on the product, its wrapper or container.

Individual
purchase
price
marking
required

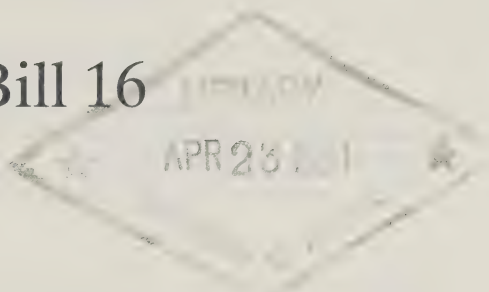
2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Consumer Protection Amendment Act, 1983*.

Short title

Bill 16



An Act to amend the Election Act

Mr. Boudria

1st Reading April 21st, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill would provide a procedure of voting by mail, for the convenience of persons physically incapable of attending a polling place. This system would be an alternative to the present procedure of voting by proxy.

Bill 16

1983

An Act to amend the Election Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Election Act*, being chapter 133 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 87a,
enacted

87a.—(1) A voter who is prevented by any physical handicap or other incapacitating physical condition from attending the polling place or the advance poll may apply in writing, giving his or her full name and address, to the returning officer to vote at the election by mail. Handicapped
voters, etc.,
may apply to
vote by mail

(2) When the returning officer receives a voter's application under subsection (1) at least ten days before the polling day and is satisfied that the voter is, Ballot to
be sent

- (a) qualified to vote in the election; and
- (b) prevented by a physical handicap or other incapacitating physical condition from attending the polling place or the advance poll,

the returning officer shall initial a ballot in the manner provided by section 82 and, at least seven days before the polling day, shall mail or deliver to the voter at the address shown on the application,

- (c) the initialled ballot;
- (d) a ballot envelope;
- (e) a certificate envelope printed with a certificate of identification in the prescribed form;
- (f) an envelope printed with the returning officer's mailing address; and

(g) a copy of subsection (5).

Sending of
ballot to
be recorded

(3) Where the returning officer mails or delivers a ballot and accompanying material to a voter under subsection (2), the returning officer shall,

- (a) enter the words "Ballot sent" opposite the voter's name in the polling list to be supplied to each deputy returning officer on polling day; and
- (b) enter the voter's name in a separate record of the names of voters to whom ballots have been sent under subsection (2).

One vote
only

(4) A voter to whom a ballot has been sent under subsection (2) is not entitled to vote at the advance poll or at the polling place on the polling day.

Voting
procedure

(5) A voter who receives a ballot and accompanying material under subsection (2) shall mark the ballot and vote in the following manner:

1. The voter shall mark the ballot with a pen or pencil within the white circle following the name of the candidate chosen.
2. The voter shall insert the marked ballot into the ballot envelope and seal the ballot envelope.
3. The voter shall insert the ballot envelope into the certificate envelope and seal the certificate envelope.
4. The voter and another voter qualified to vote in the same polling subdivision shall complete the certificate of identification printed on the certificate envelope.
5. The voter shall insert the certificate envelope into the envelope printed with the returning officer's address and seal the envelope.
6. The voter shall mail or deliver the sealed outer envelope to the returning officer so that it reaches the returning officer before the close of polls on the polling day.

ss. 66, 67,
69 and 70
apply

(6) Sections 66, 67, 69 and 70 apply, with necessary modifications, to voting under subsection (5).

(7) Where the returning officer receives a ballot under subsection (5) before the close of polls on the polling day, the returning officer shall,

Returning officer to deal with ballot

- (a) record the return of the ballot opposite the voter's name in the record kept under clause (3) (b); and
- (b) if satisfied, from an examination of the certificate of identification, as to the voter's identity, place the unopened ballot envelope in a special ballot box kept for ballots that have been sent to voters and returned; or
- (c) if not satisfied, from an examination of the certificate of identification, as to the voter's identity, keep the unopened certificate envelope, marked "Not identified", with the record kept under clause (3) (b).

(8) Sections 103 and 104 apply, with necessary modifications, to the ballot box kept under clause (7) (b).

Counting, etc., of ballots

2. Section 165 of the said Act is amended by adding thereto the following clause:

s. 165, amended

- (c) prescribing the form of the certificate of identification to be used under section 87a.

3. This Act comes into force on the day it receives Royal Assent.

Commencement

4. The short title of this Act is the *Election Amendment Act*, 1983.

Short title

Bill 17



**An Act to amend the
Legislative Assembly Act**

Mr. Ruston

1st Reading April 22nd, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill provides for a deduction of \$100 from a member's indemnity for each day of absence over ten days in a session from the Assembly while it is sitting, unless the absence is because of illness, pregnancy and childbirth, or official business.

Bill 17

1983

**An Act to amend the
Legislative Assembly Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 60 of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 29, section 1 and 1982, chapter 43, section 1, is further amended by adding thereto the following subsection:

s. 60,
amended

(3a) A deduction of one hundred dollars shall be made from the indemnity payable to a member under this section for every day beyond ten in a session on which the Assembly sits and on which the member is absent from the Assembly for reasons other than illness, pregnancy and childbirth, or official business.

Deduction
for absence

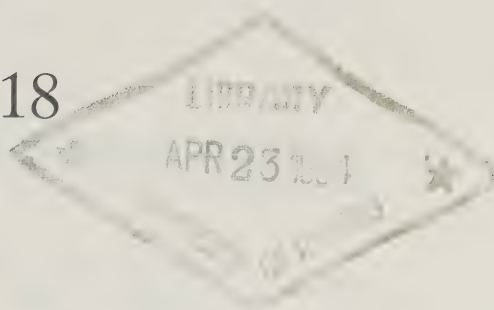
2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Legislative Assembly Amendment Act, 1983*.

Short title

Bill 18



An Act to amend the Denture Therapists Act

Mr. Swart

1st Reading April 22nd, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would amend the Act to refer to denturists rather than denture therapists and would permit denturists to make, repair and market partial dentures without requiring supervision by dentists.

Bill 18

1983

**An Act to amend the
Denture Therapists Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The title to the *Denture Therapists Act*, being chapter 115 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Title,
re-enacted

Denturists Act

2. Wherever in the said Act reference is made to a denture therapist, the reference shall be deemed to be to a denturist.

Amendments
to references

3.—(1) Clauses 1 (a) and (b) of the said Act are repealed and the following substituted therefor:

s. 1 (a, b),
re-enacted

(a) “Appeal Board” means the Denturists Appeal Board continued under section 13;

(b) “Board” means the Governing Board of Denturists under section 2.

(2) Clause 1 (h) of the said Act is amended by striking out “or the practice of supervised denture therapy, as the case may be” in the sixth and seventh lines.

s. 1 (h),
amended

(3) Clause 1 (i) of the said Act is amended by striking out “or the practice of supervised denture therapy” in the second and third lines.

s. 1 (i),
amended

(4) Clause 1 (j) of the said Act is amended by striking out “or the practice of supervised denture therapy” in the third line.

s. 1 (j),
amended

(5) Clause 1 (l) of the said Act is repealed and the following substituted therefor:

s. 1 (l),
re-enacted

(l) “practice of denture therapy” means,

- (i) the taking of impressions or bite registrations for the purpose of, or with a view to, the making, producing, reproducing, constructing, furnishing, supplying, altering or repairing of any removable prosthetic denture,
- (ii) the fitting of any removable prosthetic denture, and
- (iii) the making, producing, reproducing, constructing, furnishing, supplying, altering and repairing of removable prosthetic dentures in respect of which a service is performed under subclause (i) or (ii).

s. 1 (m),
repealed

(6) Clause 1 (m) of the said Act is repealed.

s. 2 (1),
re-enacted

4.—(1) Subsection 2 (1) of the said Act is repealed and the following substituted therefor:

Governing
Board of
Denturists

(1) The Governing Board of Denture Therapists is continued and shall be known as the Governing Board of Denturists and composed of members appointed by the Lieutenant Governor in Council.

s. 2 (9) (a),
amended

(2) Clause 2 (9) (a) of the said Act is amended by striking out “and the practice of supervised denture therapy” in the first and second lines.

s. 2 (9) (c),
amended

(3) Clause 2 (9) (c) of the said Act is amended by striking out “and the practice of supervised denture therapy” in the third and fourth lines.

s. 3 (1),
amended

5.—(1) Subsection 3 (1) of the said Act is amended by striking out “or the practice of supervised denture therapy” in the fourth and fifth lines.

s. 3 (3),
amended

(2) Subsection 3 (3) of the said Act is amended by striking out “or the practice of supervised denture therapy” in the second and third lines and in the fifth line.

s. 4 (5),
amended

6.—(1) Subsection 4 (5) of the said Act is amended by striking out “or the practice of supervised denture therapy” in the third and fourth lines.

s. 4 (6),
re-enacted;
s. 4 (7-9),
repealed

(2) Subsections 4 (6), (7), (8) and (9) of the said Act are repealed and the following substituted therefor:

(6) No licensed dentist shall perform any act in the practice of dentistry except within the scope of the practice of denture therapy performed in the manner required by this Act. Acts outside scope of practice

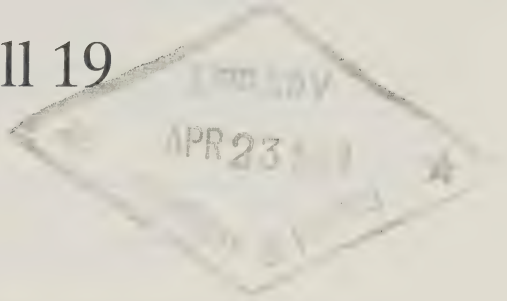
7. Subsection 13 (1) of the said Act is repealed and the following substituted therefor: s. 13 (1), re-enacted

(1) The Denture Therapists Appeal Board is continued and shall be known as the Denturists Appeal Board. Denturists Appeal Board

8. This Act comes into force on the day it receives Royal Assent. Commencement

9. The short title of this Act is the *Denture Therapists Amendment Act, 1983*. Short title

Bill 19



An Act to amend the Employment Standards Act

Mr. Wrye

1st Reading April 25th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would amend the group termination scheme of the Act to provide that severance pay is due when the employment of fifteen (rather than fifty) employees is terminated during a six month period, is payable to employees with one year's (rather than five years') seniority and is not subject to a maximum (rather than being limited to the equivalent of twenty-six weeks' wages).

Bill 19

1983

An Act to amend the Employment Standards Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 40a (1) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2, is repealed and the following substituted therefor: s. 40a (1),
re-enacted

(1) Where,

Severance
pay

- (a) fifteen or more employees have their employment terminated by an employer in a period of six months or less; and
- (b) the terminations are caused by the permanent discontinuance of all or part of the business of the employer at an establishment,

the employer shall pay severance pay to each employee whose employment has been terminated and who has been employed by the employer for one year or more in an amount equal to the amount the employee would have received at his regular rate for a regular non-overtime work week multiplied by the number of years of employment with the employer.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Employment Standards Amendment Act, 1983*. Short title

Bill 20

APR 23 1983



**An Act to Protect the Purchasers of
New Motor Vehicles**

Mr. Philip

1st Reading April 25th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill would entitle a consumer who owns a defective new motor vehicle to obtain either an equivalent vehicle in replacement or a full refund of the purchase price.

Bill 20

1983

An Act to Protect the Purchasers of New Motor Vehicles

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “defect” means a defect that substantially impairs the usefulness, value or safety of a new motor vehicle;
- (b) “motor vehicle dealer” means a motor vehicle dealer as defined in the *Motor Vehicle Dealers Act*;
- (c) “new motor vehicle” means an automobile that is purchased for personal or household use and has not, before delivery to the purchaser, been driven for any purpose other than delivery to a motor vehicle dealer, inspection by prospective purchasers and servicing.

R.S.O. 1980,
c. 299

2.—(1) Where a new motor vehicle, before the first anniversary of its delivery to the purchaser or before the new motor vehicle has been driven 20,000 kilometres, whichever comes first,

Rights of
owner of
defective
vehicle

- (a) has been the subject of four attempts to repair a defect, by the manufacturer, the motor vehicle dealer or a person authorized by either of them; or
- (b) has been out of service for an aggregate period of thirty days, in the course of attempted repairs of a defect by the manufacturer, the motor vehicle dealer or a person authorized by either of them,

and the defect remains substantially uncorrected, the owner of the new motor vehicle is entitled to return the new motor

vehicle to the motor vehicle dealer and receive in return, at the owner's option,

- (c) another new motor vehicle of the same type and model and having the same accessories and optional features as the first new motor vehicle; or
- (d) a full refund of the purchase price of the new motor vehicle, including all collateral charges but excluding a reasonable allowance for the actual use of the vehicle.

Exception

(2) Subsection (1) does not apply to a defect that is the result of abuse, neglect or unauthorized modifications to the new motor vehicle.

Idem

(3) The thirty day period referred to in clause (1) (b) does not include any period during which repairs cannot be performed for reasons beyond the control of the motor vehicle dealer.

Consumer
Protection
Bureau
to mediate
R.S.O. 1980,
c. 88

3. The Consumer Protection Bureau established under the *Consumer Protection Bureau Act* shall mediate between the owner of a new motor vehicle and the motor vehicle dealer where either party so requests.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Lemon-Aid Act, 1983*.

Bill 21



An Act to proclaim Arbour Day

Mr. Kennedy

1st Reading April 26th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill proclaims the observance of Arbour Day and sets out the objects of its observance.

Bill 21**1983****An Act to proclaim Arbour Day**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The last Friday in April of each year shall be observed under the name of Arbour Day for the purpose of encouraging, Arbour Day proclaimed

- (a) the beautification of Ontario by the use of trees;
- (b) the landscaping, painting and cleaning of industrial plants, public institutions and private homes;
- (c) the appreciation of the beauty and use of trees;
- (d) the stimulation of interest in and knowledge of trees; and
- (e) the planting, preservation and conservation of trees.

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is the *Arbour Day Act, 1983*. Short title

Bill 22

**An Act to provide Parking Facilities for
Physically Handicapped Persons**

Mr. Kennedy

1st Reading April 26th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of this Bill is to ensure that parking facilities are made available to physically handicapped persons.

The Bill provides that at least 1 per cent of all parking spaces in parking lots containing more than twenty-five parking spaces to which the public has access will be designated for the sole use of vehicles operated by physically handicapped persons and vehicles conveying physically handicapped persons.

Parking lots owned or operated by public authorities located within 200 metres of a public building must provide at least 2 per cent of all parking spaces as designated parking spaces.

Municipalities will be able to specify that a higher percentage of designated parking spaces be provided.

The Bill will also allow physically handicapped persons to apply to the council of a municipality to pass by-laws exempting physically handicapped persons from the municipality's on-street parking by-laws. If the council refuses or neglects to pass the by-law, the applicant may appeal to the Ontario Municipal Board.

The Bill prescribes a procedure for obtaining permits for the use of designated parking spaces. The permits will be available from municipal clerks and will be valid throughout Ontario. The permits will also allow physically handicapped persons to take advantage of exemptions from on-street parking by-laws.

A minimum \$25 fine is prescribed for improper use of any designated parking space, whether the parking space has been provided voluntarily by the parking lot owner or pursuant to the mandatory provisions of the Act.

Bill 22

1983

**An Act to provide Parking Facilities for
Physically Handicapped Persons**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,Interpre-
tation

- (a) “conveying” includes picking up and discharging;
- (b) “designated parking space” means a parking space marked by a sign, as described in the Schedule, as a parking space for,
 - (i) a vehicle operated by a physically handicapped person, and
 - (ii) a vehicle conveying a physically handicapped person,

and includes a parking space designated pursuant to a by-law passed under paragraph 150 of section 210 of the *Municipal Act*;

R.S.O. 1980,
c. 302

- (c) “physically handicapped person” means a person who is permanently or temporarily,
 - (i) confined to a wheelchair,
 - (ii) required to use crutches, braces or other devices that seriously restrict the mobility of the person, or
 - (iii) for medical reasons, not referred to in sub-clause (i) or (ii), seriously restricted in his or her mobility;
- (d) “public authority” means,

- (i) the Crown and every board and agency thereof,
- (ii) conservation authorities,
- (iii) a municipality and every local board thereof,
- (iv) Ontario Hydro;
- (e) "public building" means a building owned by or leased to a public authority and that is used by a public authority in carrying on its business or undertaking.

Adminis-
tration
of Act

2. The Minister of Municipal Affairs and Housing is responsible for the administration of this Act.

Application
to Crown

3. This Act binds the Crown.

Designated
parking
spaces

4.—(1) Any owner of or operator of a parking lot or other parking facility may provide designated parking spaces.

Mandatory
designation

(2) Every owner and every operator of a parking lot or other parking facility to which the public has access, whether on payment of a fee or otherwise, and which contains more than twenty-five parking spaces shall provide at least one designated parking space for each one hundred parking spaces or part thereof in the lot or facility.

Parking lots
adjacent to
public
buildings

(3) Notwithstanding subsection (2), where a parking lot or other parking facility owned or operated by a public authority is located within two hundred metres of a public building, the public authority shall provide at least two designated parking spaces for each one hundred parking spaces or part thereof in the lot or facility.

Application
of municipal
by-laws
R.S.O. 1980,
c. 302

(4) Where, under paragraph 150 of section 210 of the *Municipal Act*, a municipality has passed a by-law requiring more than the number of designated parking spaces required under subsection (2), the number of designated parking spaces required by the by-law shall be provided.

Signs

(5) Every designated parking space shall be conspicuously marked by a sign, as described in the Schedule.

Dimension

(6) A designated parking space required under subsection (2) or (3) or under a by-law passed under paragraph 150 of section 210 of the *Municipal Act* shall have a minimum length of six metres and a minimum width of four metres.

5.—(1) Where, upon the application of a physically handicapped person, a municipality refuses or neglects to pass a by-law under paragraph 119 of section 210 of the *Municipal Act* within ninety days of the receipt of the application by the clerk of the municipality, the applicant may appeal to the Ontario Municipal Board and the Board shall hear the appeal and dismiss the same or direct that the by-law be passed, with or without amendments, in accordance with its order.

By-laws

R.S.O. 1980,
c. 302

(2) The Ontario Municipal Board, in considering an appeal under this section, shall consider as relevant factors,

Relevant
factors

- (a) the needs of the physically handicapped person;
- (b) the availability of off-street parking;
- (c) the safety of other users of the highways; and
- (d) such other matters as the Board considers relevant.

6. Every by-law passed under paragraphs 119 and 150 of section 210 of the *Municipal Act* shall be deemed to apply to both vehicles operated by physically handicapped persons and to vehicles conveying physically handicapped persons.

Interpre-
tation of
by-laws

7.—(1) Upon the application in Form 1 of a physically handicapped person and upon compliance with subsection (2), the clerk of a municipality shall issue a permit in Form 2 to the physically handicapped person.

Permits

(2) An application under subsection (1) shall be accompanied by the certificate in Form 3 of a qualified medical practitioner certifying that the applicant is a physically handicapped person as defined in clause 1 (c).

Medical
certificate

(3) The information contained in Form 3 is confidential and, except for the purpose of a prosecution under this Act, no person shall publish, disclose or communicate the information contained in Form 3.

Confidential
information

(4) A permit issued to a person who is a permanently physically handicapped person is valid in perpetuity and a permit issued to a temporarily physically handicapped person is valid for three months from the date of issue.

Period of
validity

(5) A permit issued under this section is valid throughout Ontario for the purposes of this Act and every by-law passed under paragraphs 119 and 150 of section 210 of the *Municipal Act*.

Province-
wide validity

Fee

(6) The council of a municipality may, by by-law, prescribe a fee not exceeding \$2 for the issue of a permit under this section.

Use of
permit

(7) A permit issued under this section may be used by the physically handicapped person in any vehicle whether the person is operating the vehicle or being conveyed in the vehicle.

Display
of permit
R.S.O. 1980,
c. 302

8. For the purpose of an exemption provided under a by-law passed under paragraph 119 of section 210 of the *Municipal Act* and for the purpose of using a designated parking space, a permit issued under section 7 shall be displayed on the dashboard of the vehicle or otherwise displayed in the windshield of the vehicle.

Prohibition

9.—(1) No person shall park a vehicle in a designated parking space unless a valid permit is displayed in accordance with section 8.

Idem

(2) No person, other than a physically handicapped person, shall acquire or use a permit issued under section 7.

Offences

10.—(1) Every person who contravenes subsection 7 (3) or section 9 is guilty of an offence and on conviction is liable to a fine of not less than \$25 and not more than \$200.

Idem

(2) Every owner and every operator of a parking lot who contravenes subsection 4 (2) or (3) or a regulation made under this Act is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$10,000.

Enforcement

(3) Sections 4 and 9 and the regulations made under this Act may be enforced by the council of a municipality in the same manner and with the same remedies as if they were by-laws passed by the council under the *Municipal Act*.

Owner
liable

(4) For the purposes of subsection (1), the owner of the vehicle, whether or not he was the driver at the time the offence was committed, may be charged with and convicted of the offence unless at the time of the offence the vehicle was in the possession of some other person without the owner's consent.

Removal and
storage of
vehicle
R.S.O. 1980,
c. 198

(5) Subsection 147 (13) of the *Highway Traffic Act* applies with necessary modifications to a vehicle parked in contravention of subsection 9 (1).

Identifying
markers

11. The Minister of Transportation and Communications may authorize the use of, and issue, identifying markers for vehicles owned by physically handicapped persons or used for

conveying physically handicapped persons, and any such marker shall be deemed to be a permit issued under this Act.

12.—(1) For the purposes of designated parking spaces required under subsections 4 (2) and (3), the Lieutenant Governor in Council may, by regulation, Regulations

- (a) prescribe the location of designated parking spaces;
- (b) require the construction of ramps and related facilities to permit physically handicapped persons to move safely and freely from designated parking spaces to the pedestrian access points of parking lots and parking facilities.

(2) A regulation made under subsection (1) may be general or particular in its application. Idem

13. A sign prescribed pursuant to a by-law passed under paragraph 150 of section 210 of the *Municipal Act* may continue to be used by the owner or operator of a parking lot or other parking facility until the 1st day of January, 1987, and every such sign shall be deemed to comply with this Act until that date. Transition
R.S.O. 1980,
c. 302

14.—(1) Clause (a) of paragraph 119 of section 210 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: R.S.O. 1980,
c. 302, s. 210,
par. 119 (a),
re-enacted

- (a) A by-law passed under this paragraph may regulate or prohibit the parking, standing or stopping of motor vehicles in respect of which a permit has been issued under the *Parking Facilities for the Handicapped Act, 1983*, and the provisions authorized by this clause may be different from and in conflict with the provisions of any other by-law of the municipality for prohibiting or regulating the parking, standing or stopping of motor vehicles on a highway or part thereof under the jurisdiction of the council. 1983, c...

(2) Paragraph 150 of section 210 of the said Act is amended by striking out “a by-law passed by the council under paragraph 119 and for prohibiting the use of such spaces by other vehicles” in the sixth, seventh and eighth lines and inserting in lieu thereof “the *Parking Facilities for the Handicapped Act, 1983*”. s. 210,
par. 150,
amended

Commence-
ment

15.—(1) This Act, except subsections 4 (2) and (3) and subsection 10 (2), comes into force on the day it receives Royal Assent.

Idem

(2) Subsections 4 (2) and (3) and subsection 10 (2) come into force on the 1st day of March, 1984.

Short title

16. The short title of this Act is the *Parking Facilities for the Handicapped Act, 1983*.

SCHEDULE

DESIGNATED PARKING SPACE SIGN

1. Description

The sign is composed of two elements—the wheelchair figure and either a square background or square border. The correct colour for the sign is a dark blue or black. This blue or black should be the background colour for a white wheelchair figure when used without a border, or as the colour for the border and wheelchair figure on a white background. It is recommended that the sign be at least forty centimetres square.

2. Illustration



Form 1

APPLICATION FOR PERMIT

Application to the clerk of The Corporation of the
City, Town, etc.

of
Name of Municipality

Name of Physically Handicapped Person

Address
Street and Number or Lot, Concession and Township

Post OfficePostal Code
City, Town, Village, etc., R.R. No.

Nature of Handicap Permanent Temporary (circle one)

I hereby apply for a permit under subsection 7 (1) of the *Parking Facilities for the Handicapped Act, 1983* for the physically handicapped person named above.

Date of application
Signature of Applicant

(Note, where the named applicant is unable to sign this application it may be signed by another person on his or her behalf.)

Form 2

PERMIT

Permit issued under the *Parking Facilities for the Handicapped Act, 1983*.

Permit issued to
(name of physically handicapped person)

Name of issuing municipality

Date of issue

Nature of handicap

(Enter *permanent* or *temporary* in this space)



This permit must be displayed on the dashboard or in the windshield of the vehicle when using a designated parking space.

Form 3

MEDICAL CERTIFICATE

Name of Qualified Medical Practitioner

Office Address

Name of Physically Handicapped Person

I have examined the above-named person and I am of the opinion that the person is a permanently/temporarily (circle appropriate word) physically handicapped person within the meaning of the *Parking Facilities for the Handicapped Act, 1983* for the following reason(s):

(Briefly set out the nature of the physical handicap)

Date of Certificate

Signature of Qualified
Medical Practitioner

(Note: the Parking Facilities for the Handicapped Act, 1983 defines a physically handicapped person as follows:

1. In this Act,

(c) "physically handicapped person" means a person who is permanently or temporarily,

(i) confined to a wheelchair,

(ii) required to use crutches, braces or other devices that seriously restrict the mobility of the person, or

(iii) for medical reasons, not referred to in subclause (i) or (ii), seriously restricted in his or her mobility.)



Bill 23

**An Act to amend the
Ministry of Government Services Act**

The Hon. D. J. Wiseman
Minister of Government Services

1st Reading April 28th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. Subsection 3 (2) of the Act now reads as follows:

(2) The Lieutenant Governor in Council may appoint a Queen's Printer for Ontario who shall control imprint and secure legal copyright on and control title to all legislative and other material printed by the Government.

SECTION 2. New section 4a is added to the Act to authorize the form and use of a seal.

SECTION 3. Subsection 5 (3) of the Act provides for the assignment of responsibilities to another minister. The amendment is complementary to subsection 5 (2) of the Act which sets out the responsibility of the Ministry.

SECTION 4. New section 12a is added to the Act to provide protection from personal liability for the Deputy Minister, the Queen's Printer for Ontario, the staff of the Ministry and anyone acting under authority. The section preserves the liability of the Crown.

SECTION 5.—Subsection 1. Section 16 of the Act authorizes the Minister to delegate any power or authority, other than the power to expropriate, to the Deputy Minister or to any officer or officers of the Ministry. The authority to delegate is subject to the approval of the Lieutenant Governor in Council. The amendment removes the requirement for such approval.

Subsection 2. New subsection 16 (2) of the Act refers to section 6 of the *Executive Council Act* which now reads as follows:

(6) No deed or contract in respect of any matter under the control or direction of a minister is binding on Her Majesty or shall be deemed to be the act of such minister unless it is signed by him or is approved by the Lieutenant Governor in Council.

Bill 23

1983

An Act to amend the Ministry of Government Services Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 (2) of the *Ministry of Government Services Act*, being chapter 279 of the Revised Statutes of Ontario, 1980, is amended by striking out “printed by the Government” in the fourth line and inserting in lieu thereof “produced by the Government in any form”. s. 3 (2),
amended

2. The said Act is amended by adding thereto the following section: s. 4a,
enacted

4a.—(1) The Lieutenant Governor in Council may authorize a seal for the Ministry. Seal

(2) The seal may be reproduced by engraving, lithographing, printing or other method of mechanical reproduction and when so reproduced has the same effect as if manually affixed. Idem

3. Subsection 5 (3) of the said Act is amended by inserting after “Minister” in the fourth line “or of the Ministry”. s. 5 (3),
amended

4. The said Act is further amended by adding thereto the following section: s. 12a,
enacted

12a.—(1) No action or other proceeding for damages shall be instituted against the Deputy Minister, the Queen’s Printer for Ontario, or an officer, clerk or servant of the Ministry, or anyone acting under the authority of the Deputy Minister for any act done in good faith in the execution or intended execution of a duty, or for any alleged neglect or default in the execution in good faith of a duty. Protection
from
personal
liability

(2) Subsection (1) does not by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by a person Idem
R.S.O. 1980,
c. 393

mentioned in subsection (1) to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted.

s. 16,
amended

5.—(1) Section 16 of the said Act is amended by striking out “subject to the approval of the Lieutenant Governor in Council” in the third and fourth lines.

s. 16,
amended

(2) The said section 16 is further amended by adding thereto the following subsection:

Effect of
R.S.O. 1980,
c. 147

(2) Notwithstanding the *Executive Council Act*, a contract or an agreement made by a person empowered to do so under a delegation made under subsection (1) or under the direction of the Minister and the Deputy Minister under subsection 10 (2) has the same effect as if made and signed by the Minister.

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

7. The short title of this Act is the *Ministry of Government Services Amendment Act, 1983*.

Bill 23

3RD SESSION, 32ND LEGISLATURE, ONTARIO

32 ELIZABETH II, 1983

Bill 23

(Chapter 35
Statutes of Ontario, 1983)

An Act to amend the Ministry of Government Services Act

The Hon. D. J. Wiseman
Minister of Government Services

<i>1st Reading</i>	April 28th, 1983
<i>2nd Reading</i>	June 7th, 1983
<i>3rd Reading</i>	June 9th, 1983
<i>Royal Assent</i>	June 9th, 1983

Bill 23

1983

An Act to amend the Ministry of Government Services Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 (2) of the *Ministry of Government Services Act*, being chapter 279 of the Revised Statutes of Ontario, 1980, is amended by striking out “printed by the Government” in the fourth line and inserting in lieu thereof “produced by the Government in any form”. s. 3 (2),
amended

2. The said Act is amended by adding thereto the following section: s. 4a,
enacted

4a.—(1) The Lieutenant Governor in Council may authorize a seal for the Ministry. Seal

(2) The seal may be reproduced by engraving, lithographing, printing or other method of mechanical reproduction and when so reproduced has the same effect as if manually affixed. Idem

3. Subsection 5 (3) of the said Act is amended by inserting after “Minister” in the fourth line “or of the Ministry”. s. 5 (3),
amended

4. The said Act is further amended by adding thereto the following section: s. 12a,
enacted

12a.—(1) No action or other proceeding for damages shall be instituted against the Deputy Minister, the Queen’s Printer for Ontario, or an officer, clerk or servant of the Ministry, or anyone acting under the authority of the Deputy Minister for any act done in good faith in the execution or intended execution of a duty, or for any alleged neglect or default in the execution in good faith of a duty. Protection
from
personal
liability

(2) Subsection (1) does not by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by a person Idem
R.S.O. 1980,
c. 393

mentioned in subsection (1) to which it would otherwise be subject, and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted.

s. 16,
amended

5.—(1) Section 16 of the said Act is amended by striking out “subject to the approval of the Lieutenant Governor in Council” in the third and fourth lines.

s. 16,
amended

(2) The said section 16 is further amended by adding thereto the following subsection:

Effect of
R.S.O. 1980,
c. 147

(2) Notwithstanding the *Executive Council Act*, a contract or an agreement made by a person empowered to do so under a delegation made under subsection (1) or under the direction of the Minister and the Deputy Minister under subsection 10 (2) has the same effect as if made and signed by the Minister.

Commence-
ment

6. This Act comes into force on the day it receives Royal Assent.

Short title

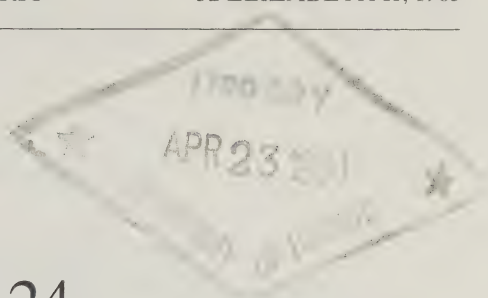
7. The short title of this Act is the *Ministry of Government Services Amendment Act, 1983*.

Bill 24

Private Member's Bill

3RD SESSION, 32ND LEGISLATURE, ONTARIO

32 ELIZABETH II, 1983



Bill 24

An Act to amend the Education Act

Mr. Cooke

1st Reading April 28th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to require school boards in Ontario to develop definitive orderly procedures and rational policies for determining, in this period of declining enrolment, whether or not schools should be closed. All procedures and policies must be approved by the Ministry of Education and a full moratorium on all school closings will be in effect until approval is received. The Bill requires full public hearings at all stages and the provision of all information by the board to affected citizens, including financial and sociological effects, and a complete survey of alternate choices of education likely to be made by parents in the event of a community school closure. Should a board decide to close a particular school, provision is made for an appeal to the Ontario Municipal Board which shall consider all matters that were before the school board and the public hearings.

Bill 24

1983

An Act to amend the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

s. 172a,
enacted

Policies and Procedures for School Closures

172a.—(1) In considering a school closure as a result of an enrolment or projected enrolment change, a board must establish and submit to the Ministry for approval definitive procedures and policies which must include,

Procedures
and policies

- (a) a procedure and criteria for identifying when a school becomes a candidate for consideration for closure;
- (b) the establishment of a definite procedure by which the citizens of the affected community have full and immediate access to any information and an opportunity at public hearings to make their views known to the board prior to any discussions dealing with the matter of closure of a particular school;
- (c) a clear procedure for involving full discussions and public hearings with the citizens of the affected area, with complete and immediate provision of any and all information and assistance that they require in reaching their decision, including liaison and input from board and municipal planners, once a school has been identified as a candidate for closure;
- (d) a procedure for showing clearly how the closure of any school would affect the attendance area defined by that school, and any other area schools affected, including a complete survey of alternate choices of education likely to be made by parents in the event

of closure, and if applicable, how closure would affect busing with a view to always having alternate schools available within reasonable walking distance to avoid busing;

- (e) a provision for a complete analysis and report on the financial effects upon the board and taxpayer households of,
 - (i) not closing,
 - (ii) altering school programs of,
 - (iii) all proposed combinations of mixed uses of, and
 - (iv) closing,the school under consideration;
- (f) a procedure for analyzing the social effect upon the community of closing a community school, and a thorough procedure for identifying one or more alternate, or future alternate, uses for parts of the building in order to assist the school portion of the building to continue operating;
- (g) a minimum time period of not less than eight months between the identification of a school as a candidate for closure and the matter being brought to the board for decision with a procedure for the views and decisions of the affected citizens to be given paramount importance and prominence before the board; and
- (h) a detailed plan for the alternate use of the school building or site should the consensus be that for educational, program and community reasons the school be closed.

Idem

(2) When the procedures and policies of the board outlined in subsection (1) are accepted by the Ministry, and following those procedures, including a final hearing in which all studies and facts are presented, it is determined that a particular school,

- (a) remain open, that school shall not be identified again as a candidate for closure before a minimum of 5 years has elapsed, except by the written request of a

majority of the parents of the children attending that school; or

- (b) be closed, the decision for closure may be appealed to the Ontario Municipal Board.

(3) Where a decision to close a school has been appealed, the Ontario Municipal Board shall consider all those matters that were before the school board and the public hearings held under subsection (2), and the board shall make available all information that was the subject of all public hearings. Idem

(4) There shall be a moratorium on all school closings until a board has received approval by the Ministry for the procedures and policies outlined in subsection (1). Moratorium

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Education Amendment Act, 1983*. Short title

Bill 25

An Act to amend the Solicitors Act

The Hon. R. McMurtry
Attorney General

1st Reading April 29th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The section replaced permits solicitors to charge interest at the rate of 5 per cent on unpaid accounts.

The new provision permits interest to be charged at the same rate as is applicable in actions for the recovery of money and provides for interest at the same rate on money refundable on the overpayment of accounts.

Bill 25

1983

An Act to amend the Solicitors Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 35 of the *Solicitors Act*, being chapter 478 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 35,
re-enacted

35.—(1) A solicitor may charge interest on unpaid fees, charges or disbursements, calculated from a date that is one month after the bill is delivered under section 2. Interest
on unpaid
accounts

(2) Where, on a taxation of a solicitor's bill of fees, charges and disbursements, it appears that the client has overpaid the solicitor, the client is entitled to interest on the overpayment calculated from the date when the overpayment was made. Interest on
overpayment
of accounts

(3) The rate of interest chargeable under subsection (1) or (2) shall not exceed the rate that is established by section 36 of the *Judicature Act* in respect of an action that is commenced on the day the bill is delivered, or the overpayment is made, as the case may be. Rate of
interest

R.S.O. 1980,
c. 223

(4) The rate of interest applicable to a bill shall be shown on the bill delivered. Idem

(5) On the taxation of a solicitor's bill, the taxing officer may, where he considers it to be just to do so in all the circumstances, Variation
of rate on
taxation

(a) disallow interest; or

(b) fix a rate of interest that is less than the maximum rate authorized by this section,

in respect of the whole or any part of the amount allowed on the taxation.

Application
to accounts
before
section
comes into
force
1983, c...

(6) This section applies to money owing on a bill or in respect of the overpayment of a bill, notwithstanding that the debt was incurred before section 1 of the *Solicitors Amendment Act, 1983* came into force, but in that case,

- (a) the bill must be delivered or redelivered after that date and the date of such delivery is the date of delivery for the purposes of subsections (1) and (3); and
- (b) the interest on an overpayment shall be calculated from that date.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Solicitors Amendment Act, 1983*.



Bill 25

(Chapter 21
Statutes of Ontario, 1983)

An Act to amend the Solicitors Act

The Hon. R. McMurtry
Attorney General

<i>1st Reading</i>	April 29th, 1983
<i>2nd Reading</i>	May 17th, 1983
<i>3rd Reading</i>	May 24th, 1983
<i>Royal Assent</i>	May 26th, 1983

Bill 25

1983

An Act to amend the Solicitors Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 35 of the *Solicitors Act*, being chapter 478 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 35,
re-enacted

35.—(1) A solicitor may charge interest on unpaid fees, charges or disbursements, calculated from a date that is one month after the bill is delivered under section 2. Interest
on unpaid
accounts

(2) Where, on a taxation of a solicitor's bill of fees, charges and disbursements, it appears that the client has overpaid the solicitor, the client is entitled to interest on the overpayment calculated from the date when the overpayment was made. Interest on
overpayment
of accounts

(3) The rate of interest chargeable under subsection (1) or (2) shall not exceed the rate that is established by section 36 of the *Judicature Act* in respect of an action that is commenced on the day the bill is delivered, or the overpayment is made, as the case may be. Rate of
interest

R.S.O. 1980,
c. 223

(4) The rate of interest applicable to a bill shall be shown on the bill delivered. Idem

(5) On the taxation of a solicitor's bill, the taxing officer may, where he considers it to be just to do so in all the circumstances, Variation
of rate on
taxation

(a) disallow interest; or

(b) fix a rate of interest that is less than the maximum rate authorized by this section,

in respect of the whole or any part of the amount allowed on the taxation.

Application
to accounts
before
section
comes into
force
1983, c. 21

(6) This section applies to money owing on a bill or in respect of the overpayment of a bill, notwithstanding that the debt was incurred before section 1 of the *Solicitors Amendment Act, 1983* came into force, but in that case,

- (a) the bill must be delivered or redelivered after that date and the date of such delivery is the date of delivery for the purposes of subsections (1) and (3); and
- (b) the interest on an overpayment shall be calculated from that date.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Solicitors Amendment Act, 1983*.

Bill 26

An Act to amend the Condominium Act

Mr. Philip

1st Reading April 29th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would repeal unproclaimed provisions of the *Condominium Act* that relate to a condominium bureau and, instead, provide for a registrar of condominiums who would give advisory services to the public, maintain a register of the mailing addresses of condominiums and issue licences to condominium managers.

Condominium management would be restricted to licensees, except in the case of managers of a single condominium having no more than 100 units, and the Lieutenant Governor in Council would be empowered to make regulations requiring the posting of bonds. The Association of Condominium Managers may, with the approval of the Lieutenant Governor in Council, set standards for managers.

The Bill also provides a consensual procedure for the review and resolution of disputes within a condominium.

Bill 26

1983

An Act to amend the Condominium Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 (1) of the *Condominium Act*, being chapter 84 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

s. 1 (1),
amended

(ya) “tribunal” means The Commercial Registration Appeal Tribunal continued under the *Ministry of Consumer and Commercial Relations Act*.

R.S.O. 1980,
c. 274

2. The said Act is amended by adding thereto the following section:

s. 21a,
enacted

21a. The corporation shall advise the registrar of condominiums appointed under subsection 56 (1) of its mailing address and shall forthwith advise the registrar of any changes in its mailing address.

Mailing
address

3. Section 55 of the said Act is amended by striking out “subsection 56 (8)” in the third line and inserting in lieu thereof “subsection 56 (4), (5) or (6)”.

s. 55,
amended

4. Section 56 of the said Act is repealed and the following substituted therefor:

s. 56,
re-enacted

56.—(1) There shall be a registrar of condominiums who shall be appointed by the Lieutenant Governor in Council.

Registrar

(2) The registrar of condominiums may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act.

Powers

(3) The registrar shall,

Duties

(a) provide an information and advisory service to corporations, condominium managers and purchasers and owners of units for residential purposes and issue

information pamphlets in such languages as the registrar considers necessary; and

- (b) maintain and make available to the public a register of the mailing addresses of all corporations in Ontario.

Condominium
manager's
licence

- (4) No person shall enter into an agreement to manage the property of a corporation unless he is the holder of a licence issued by the registrar.

Staff
to be
licensed

- (5) No holder of a licence issued by the registrar shall employ a person to manage the property of a corporation unless the person is the holder of a licence issued by the registrar.

Conflict of
interest

- (6) No person who owns more than two units in a corporation shall enter into an agreement to manage the property of the corporation.

Exception

- (7) Despite subsection (4), an individual may, without being the holder of a licence issued by the registrar, enter into an agreement to manage the property of one corporation having no more than 100 units.

Issuance of
licences

- (8) The registrar shall issue licences to manage the property of corporations and an applicant for a licence is entitled to a licence or renewal of a licence except where,

- (a) having regard to his financial position the applicant cannot be reasonably expected to be financially responsible in the conduct of his business; or
- (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with the law and with integrity and honesty; or
- (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
 - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with the law and with integrity and honesty; or

- (d) the applicant is carrying on activities that are or will be, if the applicant is licensed, in contravention of this Act or the regulations.

(9) Subject to subsection (11), the registrar may refuse to issue a licence to an applicant where in the registrar's opinion the applicant is not entitled to registration under subsection (8). Refusal of licence

(10) Subject to subsection (11), the registrar may refuse to renew or may suspend or revoke a licence for any reason that would disentitle the licensee to a licence under subsection (8) if he were an applicant or where the licensee is in breach of a term or condition of the licence. Idem

(11) Where the registrar proposes, Notice of proposal

- (a) to refuse to grant or renew a licence; or
(b) to suspend or revoke a licence,

he shall serve notice of his proposal together with written reasons therefor on the proposed applicant or licensee.

(12) A notice under subsection (11) shall inform the proposed applicant or licensee that he is entitled to a hearing by the tribunal if he mails or delivers, within fifteen days after the notice under subsection (11) is served on him, notice in writing requiring a hearing to the registrar and the tribunal, and he may so require such a hearing. Hearing

(13) Where a proposed applicant or licensee does not require a hearing by the tribunal in accordance with subsection (12), the registrar may carry out the proposal stated in his notice under subsection (11). Where hearing not required

(14) Where a proposed applicant or licensee requires a hearing by the tribunal in accordance with subsection (12), the tribunal shall appoint a time for and hold the hearing, and on the application of the registrar at the hearing may, by order, direct the registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the tribunal considers the registrar ought to take in accordance with this Act and the regulations, and for such purposes the tribunal may substitute its opinion for that of the registrar. Hearing

(15) The tribunal may attach such terms and conditions to its order or to the licence as it considers proper to give effect to the purpose of this Act. Terms and conditions

Parties

(16) The registrar, the applicant or licensee who has required a hearing and such other persons as the tribunal may specify are parties to the proceedings before the tribunal under this section.

Continuation
of
registration

(17) Where within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his registration shall be deemed to continue,

(a) until renewal is granted; or

(b) where he is served with notice that the registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and where a hearing is required, until the tribunal has made its order.

Complaints

(18) Where the registrar receives a complaint in respect of a person licensed to manage the property of condominium corporations and so requests in writing, the person receiving the request shall furnish the registrar with such information respecting the matter complained of as the registrar requires.

Inspections

(19) The registrar or any person designated by him in writing may at any reasonable time enter upon the business premises of a person licensed to manage properties to make an inspection to ensure that the provisions of this Act and the regulations are being complied with.

s. 57,
re-enacted;
s. 58,
repealed

5. Sections 57 and 58 of the said Act are repealed and the following substituted therefor:

Review
officers

57.—(1) The Lieutenant Governor in Council shall appoint review officers who shall perform the duties and exercise the powers given to them by this Act and the regulations and the officers so appointed shall be public servants within the meaning of the *Public Service Act*.

R.S.O. 1980,
c. 418

Reference
to
tribunal

(2) Where there is a dispute between a corporation and an owner, between two or more owners, between a corporation and the condominium manager or between an owner and the condominium manager in respect of any matter relating to this Act, the declaration, by-laws or rules, the parties to the dispute may, prior to the commencement of any court proceeding in respect of the same matter, refer the matter in dispute to the tribunal for arbitration and resolution.

Written
notice

(3) Within fourteen clear days after the matter has been referred to the tribunal, the tribunal shall give written notice to

all parties of the date, time and place for the consideration of the matter in dispute and shall designate a review officer to hear the matter in dispute.

(4) For the purpose of a hearing under subsection (3), the review officer may inquire into any matter relevant to the subject-matter of the dispute, whether or not previously brought to his attention by the parties.

Inquiry
by review
officer

(5) Upon completing the hearing, the review officer may make an order ordering any party to the hearing to do or to refrain from doing any act that is the subject-matter of the hearing.

Order
by review
officer

(6) An order under subsection (5) shall state that every party to the hearing is entitled to appeal the order to the tribunal and shall specify the place where the appeal may be filed.

Appeal to
tribunal

(7) On the request of any party to the hearing, the review officer shall file a copy of any order made by him under subsection (5) in the office of the Registrar of the Supreme Court under section 19 of the *Statutory Powers Procedure Act* that applies thereto.

Filing copy
of order

(8) Except as provided in subsection (7), the *Statutory Powers Procedure Act* does not apply to proceedings before the review officer.

Application
of
R.S.O. 1980,
c. 484

(9) Every party to a hearing may appeal a review officer's order by filing a notice of appeal with the tribunal within twenty-one days after being served with notice of the review officer's order.

Notice of
appeal

(10) On an appeal, the tribunal may proceed by way of a hearing *de novo* and, after the hearing, the tribunal may make any order it considers just and equitable and, for such purposes, the tribunal shall substitute its order for that of the review officer.

Powers of
tribunal

(11) The registrar may appoint a provincial advisory committee to advise him in matters relating to the management of the property of corporations and the conduct of licensees.

Advisory
committee

(12) The provincial advisory committee shall consist of,

Membership
of
committee

(a) a chairman;

(b) three members who represent owners of units for residential purposes; and

- (c) three members nominated by the Association of Condominium Managers.

Terms of
office

(13) The members of the provincial advisory committee shall be appointed for terms of one, two or three years and, having served a term, shall not be reappointed for at least two years.

Vacancy

(14) When a vacancy occurs on the provincial advisory committee during a term of office, the registrar may fill the vacancy for the unexpired portion of the term.

s. 59 (1),
amended

6. Subsection 59 (1) of the said Act is amended by adding thereto the following clause:

- (sa) requiring licensees, or any class thereof, to be bonded in such form and terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds.

s. 59a,
enacted

7. The said Act is further amended by adding thereto the following section:

Regulations

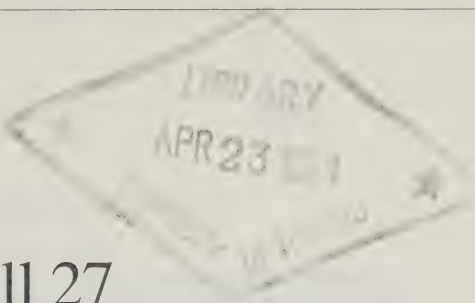
59a. Subject to the approval of the Lieutenant Governor in Council, the Association of Condominium Managers may make regulations setting standards for the management of the property of corporations, including standards for the conduct of condominium managers.

Commence-
ment

8. This Act comes into force on the day it receives Royal Assent.

Short title

9. The short title of this Act is the *Condominium Amendment Act, 1983*.



Bill 27

An Act to amend the Condominium Act

Mr. Philip

1st Reading April 29th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would authorize condominium corporations to make by-laws providing for the collection of special levies from owners of residential units that are occupied by tenants.

Bill 27

1983

An Act to amend the Condominium Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 28 (1) of the *Condominium Act*, being chapter 84 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

s. 28 (1),
amended

(ha) to require owners of units for residential purposes that are leased to pay special levies in respect of the leased units, and to fix the amounts and govern the assessment and collection of the special levies.

2.—(1) Subsection 32 (1) of the said Act is amended by adding at the end thereof “and shall pay such special levies as are required by a by-law made under clause 28 (1) (ha)”.

s. 32 (1),
amended

(2) Subsection 32 (4) of the said Act is amended by inserting after “expenses” in the second line “or to pay a special levy”.

s. 32 (4),
amended

(3) Subsection 32 (8) of the said Act is amended by inserting after “expenses” in the fourth line “and special levies, if any”.

s. 32 (8),
amended

3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

4. The short title of this Act is the *Condominium Amendment Act, 1983*.

Short title



Bill 28

An Act to amend the Small Claims Courts Act

The Hon. R. McMurtry
Attorney General

1st Reading May 3rd, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. The rewording of section 20 is intended to clarify appointment procedures for small claims court clerks, bailiffs and referees.

SECTION 2. The repealed sections deal with the service of claims, a matter that will be covered by the small claims court rules.

SECTION 3. The repealed section deals with trial transcripts and is obsolete.

SECTION 4. Proposed section 115a would provide that judgments bear interest at the Bank of Canada prime rate and would give the judge power to vary this.

SECTION 5. Complementary to section 4.

SECTION 6. Various housekeeping changes are made to section 126 of the Act, which deals with executions. Proposed subsection 126 (11) would provide that the judgment creditor or his agent are liable, if the execution is not promptly withdrawn where it has been satisfied, for any resulting losses suffered by the judgment debtor.

SECTION 7. Proposed subsections 151 (8) and (9) deal with interest on consolidation orders.

SECTION 8. The current version of section 157 of the Act refers to outdated monetary limits on the jurisdiction of small claims courts.

Bill 28

1983

**An Act to amend the
Small Claims Courts Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 20 of the *Small Claims Courts Act*, being chapter 476 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 20,
re-enacted

20.—(1) There shall be a clerk and one or more bailiffs for every small claims court, who shall be appointed by the Lieutenant Governor in Council and hold office during pleasure. Every court
to have clerk
and bailiff

(2) The Lieutenant Governor in Council may appoint a referee for each small claims court, on the recommendation of the judge, and the referee shall hold office during pleasure. Referees

2. Sections 75, 76 and 77 of the said Act are repealed. ss. 75-77,
repealed

3. Section 93 of the said Act is repealed. s. 93,
repealed

4.—(1) The said Act is amended by adding thereto the following section: s. 115a,
enacted

115a.—(1) A judgment bears interest, from the date it is given, at the prime rate as defined in subsection 56 (1) and established under subsection 56 (2) for the month preceding the month in which the judgment is given. Post-
judgment
interest

(2) The judge may, where he considers it just to do so in all the circumstances, Discretion
of judge

(a) disallow interest under this section;

(b) fix a rate of interest higher or lower than the prime rate; or

- (c) fix a date other than the date of judgment from which interest is to run,

in respect of the whole or any part of the amount for which judgment is given.

Application
of s. 115a

(2) Subsection (1) does not apply to judgments given before this Act comes into force.

s. 116 (2),
re-enacted;
s. 116 (3),
repealed

Form of
execution

5. Subsections 116 (2) and (3) of the said Act are repealed and the following substituted therefor:

(2) The clerk, at the request of the party prosecuting the judgment or order, shall issue an execution to a bailiff of the court, who by virtue thereof shall levy by distress and sale of the goods and chattels of the party in default such sum and costs as have been ordered to be paid and remain due, and shall pay such sum and costs over to the clerk.

s. 126 (1),
re-enacted

6.—(1) Subsection 126 (1) of the said Act is repealed and the following substituted therefor:

Executions
against
lands

(1) Where the sum remaining unsatisfied on a judgment amounts to \$40 or more, the judgment creditor is entitled to an execution against the land of the judgment debtor, and the clerk, at the request of the judgment creditor or his agent, shall issue an execution against the land of the judgment debtor directed to the sheriff of a county.

s. 126 (2),
amended

(2) Subsection 126 (2) of the said Act is amended by inserting after “effect” in the first line “and may be renewed in the same manner”.

s. 126 (6-8),
repealed

(3) Subsections 126 (6), (7) and (8) of the said Act are repealed.

s. 126,
amended

(4) Section 126 of the said Act is amended by adding thereto the following subsection:

Where
execution
satisfied

(11) Where an execution against lands has been filed with the sheriff and the judgment is fully satisfied, the judgment creditor or his agent shall cause the execution to be withdrawn promptly and shall be liable to the judgment debtor for any reasonably foreseeable loss resulting from failure to do so.

s. 151,
amended

7. Section 151 of the said Act is amended by adding thereto the following subsections:

No
interest

(8) Subject to subsection (9), a consolidation order does not bear interest.

(9) The judge may order that a consolidation order shall bear interest, from the date it is made or from another date, at the prime rate as defined in subsection 56 (1) and established under subsection 56 (2) for the month preceding the month in which the order begins to bear interest, or at a higher or lower rate.

Exception:
judge's
order

8. Section 157 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 66, Schedule, is repealed and the following substituted therefor:

s. 157,
re-enacted

157. Notwithstanding subsection 156 (1), where a judgment is transferred under subsection 130 (3) and a consolidation order has been made against the judgment debtor, the clerk of the court shall add the judgment to the consolidation order but only to the extent of the monetary jurisdiction of the court.

Addition of
Supreme and
county court
judgments to
consolidation
orders

9.—(1) This Act, except section 2, comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Section 2 comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

10. The short title of this Act is the *Small Claims Courts Amendment Act, 1983*.

Short title

Bill 28

*(Chapter 22
Statutes of Ontario, 1983)*

An Act to amend the Small Claims Courts Act

The Hon. R. McMurtry
Attorney General

<i>1st Reading</i>	May 3rd, 1983
<i>2nd Reading</i>	May 17th, 1983
<i>3rd Reading</i>	May 24th, 1983
<i>Royal Assent</i>	May 26th, 1983

Bill 28

1983

An Act to amend the Small Claims Courts Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 20 of the *Small Claims Courts Act*, being chapter 476 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 20,
re-enacted

20.—(1) There shall be a clerk and one or more bailiffs for every small claims court, who shall be appointed by the Lieutenant Governor in Council and hold office during pleasure. Every court
to have clerk
and bailiff

(2) The Lieutenant Governor in Council may appoint a referee for each small claims court, on the recommendation of the judge, and the referee shall hold office during pleasure. Referees

2. Sections 75, 76 and 77 of the said Act are repealed. ss. 75-77,
repealed

3. Section 93 of the said Act is repealed. s. 93,
repealed

4.—(1) The said Act is amended by adding thereto the following section: s. 115a,
enacted

115a.—(1) A judgment bears interest, from the date it is given, at the prime rate as defined in subsection 56 (1) and established under subsection 56 (2) for the month preceding the month in which the judgment is given. Post-
judgment
interest

(2) The judge may, where he considers it just to do so in all the circumstances, Discretion
of judge

(a) disallow interest under this section;

(b) fix a rate of interest higher or lower than the prime rate; or

- (c) fix a date other than the date of judgment from which interest is to run,

in respect of the whole or any part of the amount for which judgment is given.

Application
of s. 115a

(2) Subsection (1) does not apply to judgments given before this Act comes into force.

s. 116 (2),
re-enacted;
s. 116 (3),
repealed

5. Subsections 116 (2) and (3) of the said Act are repealed and the following substituted therefor:

Form of
execution

(2) The clerk, at the request of the party prosecuting the judgment or order, shall issue an execution to a bailiff of the court, who by virtue thereof shall levy by distress and sale of the goods and chattels of the party in default such sum and costs as have been ordered to be paid and remain due, and shall pay such sum and costs over to the clerk.

s. 126 (1),
re-enacted

6.—(1) Subsection 126 (1) of the said Act is repealed and the following substituted therefor:

Executions
against
lands

(1) Where the sum remaining unsatisfied on a judgment amounts to \$40 or more, the judgment creditor is entitled to an execution against the land of the judgment debtor, and the clerk, at the request of the judgment creditor or his agent, shall issue an execution against the land of the judgment debtor directed to the sheriff of a county.

s. 126 (2),
amended

(2) Subsection 126 (2) of the said Act is amended by inserting after "effect" in the first line "and may be renewed in the same manner".

s. 126 (6-8),
repealed

(3) Subsections 126 (6), (7) and (8) of the said Act are repealed.

s. 126,
amended

(4) Section 126 of the said Act is amended by adding thereto the following subsection:

Where
execution
satisfied

(11) Where an execution against lands has been filed with the sheriff and the judgment is fully satisfied, the judgment creditor or his agent shall cause the execution to be withdrawn promptly and shall be liable to the judgment debtor for any reasonably foreseeable loss resulting from failure to do so.

s. 151,
amended

7. Section 151 of the said Act is amended by adding thereto the following subsections:

No
interest

(8) Subject to subsection (9), a consolidation order does not bear interest.

(9) The judge may order that a consolidation order shall bear interest, from the date it is made or from another date, at the prime rate as defined in subsection 56 (1) and established under subsection 56 (2) for the month preceding the month in which the order begins to bear interest, or at a higher or lower rate.

Exception:
judge's
order

8. Section 157 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 66, Schedule, is repealed and the following substituted therefor:

s. 157,
re-enacted

157. Notwithstanding subsection 156 (1), where a judgment is transferred under subsection 130 (3) and a consolidation order has been made against the judgment debtor, the clerk of the court shall add the judgment to the consolidation order but only to the extent of the monetary jurisdiction of the court.

Addition of
Supreme and
county court
judgments to
consolidation
orders

9.—(1) This Act, except section 2, comes into force on the day it receives Royal Assent.

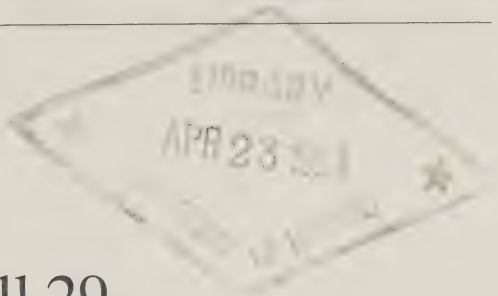
Commence-
ment

(2) Section 2 comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

10. The short title of this Act is the *Small Claims Courts Amendment Act, 1983*.

Short title



Bill 29

An Act to amend the Estates Administration Act

The Hon. R. McMurtry
Attorney General

1st Reading May 3rd, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. The new provision requires a court order before money can be paid out of an estate in Ontario to a beneficiary in one of certain countries to be designated by regulations. The purpose is to assess whether the property will be unduly depleted before it is received by the beneficiary.

SECTION 2. The section amended refers to "such distribution" which was meant to be the distribution on an intestacy, the rules for which were formerly provided in the preceding sections which were deleted when the provision for rules for distribution on an intestacy were re-enacted in the *Succession Law Reform Act*. The amendment clarifies that distribution on an intestacy is intended.

Bill 29

1983

An Act to amend the Estates Administration Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The *Estates Administration Act*, being chapter 143 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

s. 19a.
enacted

19a.—(1) In this section, “foreign beneficiary” means a beneficiary who is resident in a country designated by regulation made under this section.

Interpre-
tation

(2) Where a foreign beneficiary is entitled under a will, an intestacy or an order under Part V of the *Succession Law Reform Act* to personal property from the estate of a person who was domiciled in Ontario at the time of his death,

No distri-
bution to
foreign
beneficiary
without order
R.S.O. 1980,
c. 488

- (a) and where the property is in a form other than money and has a value of more than \$5,000, the personal representative of the deceased shall not distribute the property to the foreign beneficiary or his agent, solicitor or assignee until the foreign beneficiary has obtained an order under subsection (3);
- (b) and where the property is in the form of money, the money shall be paid into the court having jurisdiction to make an order under subsection (3), to the credit of the foreign beneficiary.

(3) Where, upon application to the court having jurisdiction to grant letters probate or letters of administration in the estate of the deceased, the court is satisfied that,

Order
authorizing
distribution

- (a) the foreign beneficiary is entitled to personal property from the estate; and

- (b) that the property will not be unduly depleted before it is received by the beneficiary,

the court may by order authorize the distribution of the personal property by a personal representative to the foreign beneficiary and payment out of court to the foreign beneficiary of money paid into court to the credit of the foreign beneficiary.

Release of
property to
other person
entitled

(4) Where, upon an application under subsection (2), the court is satisfied that a person other than a foreign beneficiary is entitled to the personal property, the court may by order direct its distribution to the person entitled.

Property
of foreign
beneficiary
held for
his benefit

(5) Where, upon an application under subsection (2), the court is satisfied that a foreign beneficiary is entitled to personal property from the estate but declines to make the order for the reason that the property will be unduly depleted before it is received by the foreign beneficiary, the property, if money, shall be held in court for the benefit of the beneficiary and, if personal property other than money, shall be held by the personal representative in trust for the benefit of the foreign beneficiary and the money shall not be paid out or property distributed except under an order under subsection (3) or (4).

Report of
agent or
assignee

(6) Every person who receives property in respect of which an order has been made under subsection (3) as agent or solicitor for, or assignee of, a foreign beneficiary shall, within two months after receiving the property, file a report with the Surrogate Clerk for Ontario in such form and containing such information respecting the property as is prescribed by the regulations made under this section.

Report of
personal
representative

(7) Every personal representative who transfers property directly to a foreign beneficiary shall make and file the report provided for in subsection (6) within two months after the transfer is made.

Penalty

(8) Every person who contravenes subsection (2), (6) or (7) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Idem

(9) Every person who knowingly furnishes false information in a report filed under subsection (6) or (7) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Regulations

(10) The Lieutenant Governor in Council may make regulations,

- (a) designating countries for the purposes of subsection (1);
- (b) prescribing the information that shall be contained in reports under subsections (6) and (7) and prescribing their form.

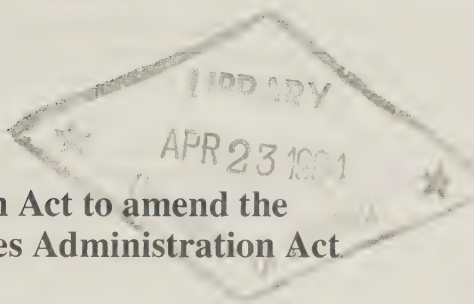
(2) Subsection (1) does not apply in respect of the estates of deceased persons who died before this section comes into force. Application
of Act

2. Section 25 of the said Act is amended by striking out “such” in the first line and by inserting after “made” in the second line “on an intestacy”. s. 25,
amended

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Estates Administration Amendment Act, 1983*. Short title

Bill 29



An Act to amend the Estates Administration Act

The Hon. R. McMurtry
Attorney General

1st Reading May 3rd, 1983
2nd Reading May 17th, 1983
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. The new provision requires a court order before money can be paid out of an estate in Ontario to a beneficiary in one of certain countries to be designated by regulations. The purpose is to assess whether the property will be unduly depleted before it is received by the beneficiary.

SECTION 2. The section amended refers to "such distribution" which was meant to be the distribution on an intestacy, the rules for which were formerly provided in the preceding sections which were deleted when the provision for rules for distribution on an intestacy were re-enacted in the *Succession Law Reform Act*. The amendment clarifies that distribution on an intestacy is intended.

Bill 29

1983

An Act to amend the Estates Administration Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The *Estates Administration Act*, being chapter 143 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

s. 19a,
enacted

19a.—(1) In this section, “foreign beneficiary” means a beneficiary who is resident in a country designated by regulation made under this section.

Interpre-
tation

(2) Where a foreign beneficiary is entitled under a will, an intestacy or an order under Part V of the *Succession Law Reform Act* to personal property from the estate of a person who was domiciled in Ontario at the time of his death,

No distri-
bution to
foreign
beneficiary
without order
R.S.O. 1980,
c. 488

(a) and where the property is in a form other than money and has a value of more than \$5,000, the personal representative of the deceased shall not distribute the property to the foreign beneficiary or his agent, solicitor or assignee until the foreign beneficiary has obtained an order under subsection (3);

(b) and where the property is in the form of money, the money shall be paid into the court having jurisdiction to make an order under subsection (3), to the credit of the foreign beneficiary.

(3) Where, upon application to the court having jurisdiction to grant letters probate or letters of administration in the estate of the deceased, the court is satisfied that,

Order
authorizing
distribution

(a) the foreign beneficiary is entitled to personal property from the estate; and

- (b) that the property will not be unduly depleted before it is received by the beneficiary,

the court may by order authorize the distribution of the personal property by a personal representative to the foreign beneficiary and payment out of court to the foreign beneficiary of money paid into court to the credit of the foreign beneficiary.

Release of
property to
other person
entitled

(4) Where, upon an application under subsection (3), the court is satisfied that a person other than a person resident in a country designated by regulation under this section is entitled to the personal property, the court may by order direct its distribution to the person entitled.

Property
of foreign
beneficiary
held for
his benefit

(5) Where, upon an application under subsection (3), the court is satisfied that a foreign beneficiary is entitled to personal property from the estate but declines to make the order for the reason that the property will be unduly depleted before it is received by the foreign beneficiary, the property, if money, shall be held in court for the benefit of the beneficiary and, if personal property other than money, shall be held by the personal representative in trust for the benefit of the foreign beneficiary and the money shall not be paid out or property distributed except under an order under subsection (3) or (4).

Report of
agent or
assignee

(6) Every person who receives property in respect of which an order has been made under subsection (3) as agent or solicitor for, or assignee of, a foreign beneficiary shall, within two months after receiving the property, file a report with the Surrogate Clerk for Ontario in such form and containing such information respecting the property as is prescribed by the regulations made under this section.

Report of
personal
representative

(7) Every personal representative who transfers property directly to a foreign beneficiary shall make and file the report provided for in subsection (6) within two months after the transfer is made.

Penalty

(8) Every person who contravenes subsection (2), (6) or (7) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Idem

(9) Every person who knowingly furnishes false information in a report filed under subsection (6) or (7) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Regulations

(10) The Lieutenant Governor in Council may make regulations,

- (a) designating countries for the purposes of subsection (1);
- (b) prescribing the information that shall be contained in reports under subsections (6) and (7) and prescribing their form.

(2) Subsection (1) does not apply in respect of the estates of deceased persons who died before this section comes into force.

Application
of Act

2. Section 25 of the said Act is amended by striking out “such” in the first line and by inserting after “made” in the second line “on an intestacy”.

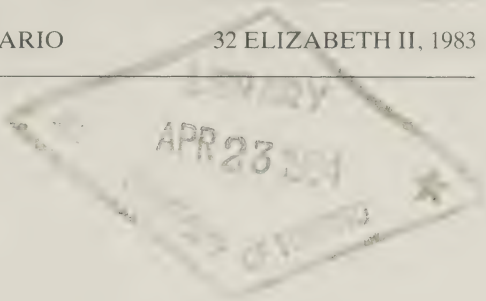
s. 25,
amended

3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

4. The short title of this Act is the *Estates Administration Amendment Act, 1983*.

Short title



Bill 29

*(Chapter 23
Statutes of Ontario, 1983)*

An Act to amend the Estates Administration Act

The Hon. R. McMurtry
Attorney General

<i>1st Reading</i>	May 3rd, 1983
<i>2nd Reading</i>	May 17th, 1983
<i>3rd Reading</i>	May 24th, 1983
<i>Royal Assent</i>	May 26th, 1983

Bill 29

1983

An Act to amend the Estates Administration Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The *Estates Administration Act*, being chapter 143 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

s. 19a,
enacted

19a.—(1) In this section, “foreign beneficiary” means a beneficiary who is resident in a country designated by regulation made under this section.

Interpre-
tation

(2) Where a foreign beneficiary is entitled under a will, an intestacy or an order under Part V of the *Succession Law Reform Act* to personal property from the estate of a person who was domiciled in Ontario at the time of his death,

No distri-
bution to
foreign
beneficiary
without order
R.S.O. 1980,
c. 488

- (a) and where the property is in a form other than money and has a value of more than \$5,000, the personal representative of the deceased shall not distribute the property to the foreign beneficiary or his agent, solicitor or assignee until the foreign beneficiary has obtained an order under subsection (3);
- (b) and where the property is in the form of money, the money shall be paid into the court having jurisdiction to make an order under subsection (3), to the credit of the foreign beneficiary.

(3) Where, upon application to the court having jurisdiction to grant letters probate or letters of administration in the estate of the deceased, the court is satisfied that,

Order
authorizing
distribution

- (a) the foreign beneficiary is entitled to personal property from the estate; and

- (b) that the property will not be unduly depleted before it is received by the beneficiary,

the court may by order authorize the distribution of the personal property by a personal representative to the foreign beneficiary and payment out of court to the foreign beneficiary of money paid into court to the credit of the foreign beneficiary.

Release of
property to
other person
entitled

(4) Where, upon an application under subsection (3), the court is satisfied that a person other than a person resident in a country designated by regulation under this section is entitled to the personal property, the court may by order direct its distribution to the person entitled.

Property
of foreign
beneficiary
held for
his benefit

(5) Where, upon an application under subsection (3), the court is satisfied that a foreign beneficiary is entitled to personal property from the estate but declines to make the order for the reason that the property will be unduly depleted before it is received by the foreign beneficiary, the property, if money, shall be held in court for the benefit of the beneficiary and, if personal property other than money, shall be held by the personal representative in trust for the benefit of the foreign beneficiary and the money shall not be paid out or property distributed except under an order under subsection (3) or (4).

Report of
agent or
assignee

(6) Every person who receives property in respect of which an order has been made under subsection (3) as agent or solicitor for, or assignee of, a foreign beneficiary shall, within two months after receiving the property, file a report with the Surrogate Clerk for Ontario in such form and containing such information respecting the property as is prescribed by the regulations made under this section.

Report of
personal
representative

(7) Every personal representative who transfers property directly to a foreign beneficiary shall make and file the report provided for in subsection (6) within two months after the transfer is made.

Penalty

(8) Every person who contravenes subsection (2), (6) or (7) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Idem

(9) Every person who knowingly furnishes false information in a report filed under subsection (6) or (7) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Regulations

(10) The Lieutenant Governor in Council may make regulations,

- (a) designating countries for the purposes of subsection (1);
- (b) prescribing the information that shall be contained in reports under subsections (6) and (7) and prescribing their form.

(2) Subsection (1) does not apply in respect of the estates of deceased persons who died before this section comes into force. Application of Act

2. Section 25 of the said Act is amended by striking out “such” in the first line and by inserting after “made” in the second line “on an intestacy”. s. 25, amended

3. This Act comes into force on the day it receives Royal Assent. Commencement

4. The short title of this Act is the *Estates Administration Amendment Act, 1983*. Short title



Bill 30

An Act to amend the Workers' Compensation Act

Mr. Haggerty

1st Reading May 5th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to broaden the criteria used by the Workers' Compensation Board in assessing the impairment of earning capacity resulting from an injury that causes permanent disability. The Act currently states that the impairment of earning capacity shall be estimated from the nature and degree of the injury. The Board is authorized under the Act to compile a rating schedule of percentages of impairment of earning capacity for specified injuries that may be used as a guide in determining the compensation payable in permanent disability cases. The Bill repeals the provision that authorizes the Board to compile a rating schedule and directs the Board to estimate the impairment of earning capacity in light of all the circumstances of each individual case.

Bill 30

1983

An Act to amend the Workers' Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 43 (1) of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 61, section 2, is repealed and the following substituted therefor: s. 43 (1),
re-enacted

(1) Where permanent disability results from the injury, the impairment of earning capacity of the worker shall be estimated in light of all the circumstances of the particular case, and the compensation shall be a weekly or other periodical payment during the lifetime of the worker, or such other period as the Board may fix, of a sum proportionate to the impairment not exceeding in any case the like proportion of 75 per cent of his average weekly earnings during the twelve months immediately preceding the accident or such lesser period as he has been employed. Permanent
disability

(1a) In considering the circumstances of the case, the Board shall have particular regard to, Consider-
ations

- (a) the extent of the physical disability;
- (b) the age of the worker;
- (c) the level of skills and education achieved by the worker;
- (d) the language spoken by the worker;
- (e) any emotional problems suffered by the worker as a result of the injury;

- (f) the state of the employment market, both generally and in the local community in which the worker resides;
- (g) the potential for the worker to rehabilitate himself through vocational rehabilitation;
- (h) any other factor that is relevant to determining the worker's ability to earn income after the accident in comparison with the worker's ability to earn income before the accident.

s. 43 (3),
repealed

(2) Subsection 43 (3) of the said Act is repealed.

s. 43 (5),
repealed

(3) Subsection 43 (5) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 61, section 2, is repealed.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Workers' Compensation Amendment Act, 1983*.

Bill 31

An Act to amend the Labour Relations Act

Mr. Haggerty

1st Reading May 9th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide a mechanism whereby the Lieutenant Governor in Council can order a sixty-day suspension of a strike or lock-out and order a return to work where the strike or lock-out constitutes an immediate and serious danger to life, health or safety or seriously disrupts the economy of the province or any area of the province.

The Bill provides that the Minister of Labour must appoint a conciliation officer where an order suspending a strike or lock-out has been made and may subsequently appoint a conciliation board where the efforts of the conciliation officer to effect a collective agreement are unsuccessful.

If conciliation efforts are unsuccessful, the strike or lock-out may be resumed without a further strike vote.

An order made under the Bill would be enforceable as an order of the Supreme Court.

Bill 31

1983

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 17 of the *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

s. 17,
amended

(3) This section does not apply where an order has been made under subsection 55a (1).

Application

2. The said Act is amended by adding thereto the following section:

s. 55a,
enacted

Suspension of Strikes or Lock-outs

55a.—(1) Where during a strike or lock-out the Lieutenant Governor in Council is of the opinion that the strike or lock-out,

Lieutenant
Governor
in Council
may by order
suspend a
strike or
lock-out
and order
a return
to work

- (a) constitutes an immediate and serious danger to life, health or safety; or
- (b) seriously disrupts the economy of the Province or any area of the Province,

the Lieutenant Governor in Council may order,

- (c) a suspension of the strike or lock-out and a return to work for a period not exceeding sixty days in length, commencing on the day next following the date of the order; or
- (d) a suspension of the strike or lock-out in respect of designated facilities and services that the Lieutenant Governor in Council determines are necessary or essential to prevent immediate and serious danger to life, health or safety and a return to work with respect to such facilities and services for a period not

exceeding sixty days in length, commencing on the day next following the date of the order.

Appointment
of concil-
iation officer
and concil-
iation board

(2) Where an order is made under clause (1) (c) or (d), the Minister shall appoint a conciliation officer and may subsequently appoint a conciliation board and sections 18 to 32 apply with necessary modifications to such appointments.

Resumption
of strike
or lock-out

(3) The parties may resume the strike or lock-out when,

- (a) the Minister gives a notice to the parties under clause 19 (b);
- (b) a conciliation board report is released under subsection 32 (5); or
- (c) the order made under subsection (1) expires,

whichever occurs first.

Enforcement
of orders

(4) The Minister may file in the office of the Registrar of the Supreme Court a copy of an order made under subsection (1), in the prescribed form, whereupon the order shall be entered in the same way as a judgment or order of that court and is enforceable by the Minister or by a trade union or employer affected as a judgment or order of that court.

Limitation
on orders

(5) The Lieutenant Governor in Council shall not make an order under subsection (1) more than once in respect of the same dispute.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Labour Relations Amendment Act, 1983*.

Bill 32



**An Act to amend the
Landlord and Tenant Act**

The Hon. R. McMurtry
Attorney General

1st Reading May 10th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill provides that, despite the decision of the Divisional Court in *Medeiros v. Fraleigh*, the owner of a percentage interest or share in an apartment building whose claim is based on a tenancy agreement or occupancy agreement that purports to entitle the landlord to reside in the residential premises, may not evict a tenant under section 105 or clause 107 (1) (b) of the *Landlord and Tenant Act*, except in the two circumstances set out.

Bill 32

1983

**An Act to amend the
Landlord and Tenant Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 107 of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection: s. 107,
amended

(7) A judge hearing an application under section 113 brought by a landlord under subsection (4) shall not direct the issue of a writ of possession where, Where writ
to be refused

- (a) the notice of termination was given under clause (1) (b); and
- (b) the landlord's claim is based on a tenancy agreement or occupancy agreement that purports to entitle the landlord to reside in the residential premises,

unless,

- (c) the application is brought in respect of premises situated in a building containing not more than six dwelling units; or
- (d) the landlord, his spouse or a child or parent of his or his spouse has previously been a *bona fide* occupant of the premises.

2. Section 110 of the said Act is amended by adding thereto the following subsection: s. 110,
amended

(4) A judge hearing an application under section 113 brought by a landlord under subsection (1) shall not direct the issue of a writ of possession under clause (3) (a) where the landlord's claim is based on a tenancy agreement or occupancy Where writ
to be refused

agreement that purports to entitle the landlord to reside in the residential premises, unless,

- (a) the application is brought in respect of premises situate in a building containing not more than six dwelling units; or
- (b) the landlord, his spouse or a child or parent of his or his spouse has previously been a *bona fide* occupant of the premises.

Application

3. Sections 1 and 2 apply to a hearing commenced on or after the day this Act comes into force, whether the notice of termination giving rise to the application was served before, on or after that day.

Commence-
ment

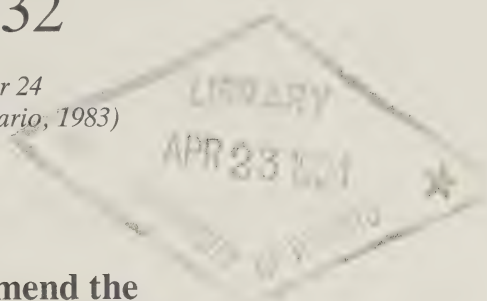
4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Landlord and Tenant Amendment Act, 1983*.

Bill 32

(Chapter 24
Statutes of Ontario, 1983)



An Act to amend the Landlord and Tenant Act

The Hon. R. McMurtry
Attorney General

<i>1st Reading</i>	May 10th, 1983
<i>2nd Reading</i>	May 17th, 1983
<i>3rd Reading</i>	May 24th, 1983
<i>Royal Assent</i>	May 26th, 1983

Bill 32

1983

An Act to amend the Landlord and Tenant Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 107 of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection: s. 107,
amended

(7) A judge hearing an application under section 113 brought by a landlord under subsection (4) shall not direct the issue of a writ of possession where, Where writ
to be refused

- (a) the notice of termination was given under clause (1) (b); and
- (b) the landlord's claim is based on a tenancy agreement or occupancy agreement that purports to entitle the landlord to reside in the residential premises,

unless,

- (c) the application is brought in respect of premises situate in a building containing not more than six dwelling units; or
- (d) the landlord, his spouse or a child or parent of his or his spouse has previously been a *bona fide* occupant of the premises.

2. Section 110 of the said Act is amended by adding thereto the following subsection: s. 110,
amended

(4) A judge hearing an application under section 113 brought by a landlord under subsection (1) shall not direct the issue of a writ of possession under clause (3) (a) where the landlord's claim is based on a tenancy agreement or occupancy Where writ
to be refused

agreement that purports to entitle the landlord to reside in the residential premises, unless,

- (a) the application is brought in respect of premises situate in a building containing not more than six dwelling units; or
- (b) the landlord, his spouse or a child or parent of his or his spouse has previously been a *bona fide* occupant of the premises.

Application

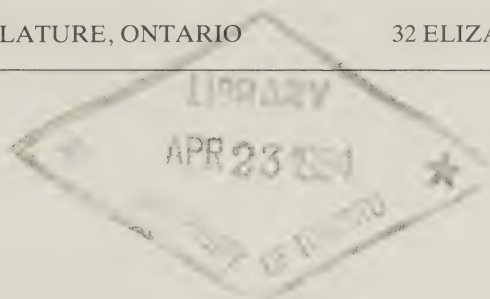
3. Sections 1 and 2 apply to a hearing commenced on or after the day this Act comes into force, whether the notice of termination giving rise to the application was served before, on or after that day.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Landlord and Tenant Amendment Act, 1983*.



Bill 33

An Act to relieve Persons from Liability in respect of voluntary Emergency Medical and First Aid Services

Mr. Haggerty

1st Reading May 10th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of this Bill is to relieve persons from liability in respect of voluntary emergency first aid assistance or medical services rendered at or near the scene of an accident or other sudden emergency.

Bill 33

1983

**An Act to relieve Persons from Liability
in respect of voluntary Emergency
Medical and First Aid Services**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “physician” means a medical practitioner licensed under Part III of the *Health Disciplines Act*;
- (b) “registered nurse” means a person who is the holder of a certificate as a registered nurse issued under Part IV of the *Health Disciplines Act*.

R.S.O. 1980,
c. 196

2. Where, in respect of a person who is ill, injured or unconscious as the result of an accident or other emergency,

Relief
from
liability
for
damages

- (a) a physician or registered nurse voluntarily and without expectation of compensation or reward renders emergency medical services or first aid assistance and the services or assistance are not rendered at a hospital or other place having adequate medical facilities and equipment; or
- (b) a person other than a person mentioned in clause (a) voluntarily renders emergency first aid assistance and the assistance is rendered at the immediate scene of the accident or emergency,

the physician, registered nurse or other person shall not be liable for damages for injuries to or the death of such person alleged to have been caused by an act or omission on his or her part in rendering the medical services or first aid assistance, unless it is established that the injuries or death were caused by the gross negligence of the physician, registered nurse or other person.

Act does
not apply
to normal
medical
services

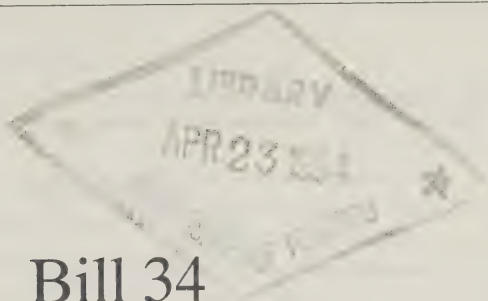
3. Nothing in section 2 shall be construed to relieve a physician from liability for damages for injuries to or the death of any person caused by an act or omission on the part of the physician in respect of medical services rendered by him in the normal and ordinary course of his practice and not under the circumstances set forth in section 2.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Good Samaritan Act, 1983*.



Bill 34

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

The Hon. F. S. Miller

Treasurer of Ontario and Minister of Economics

1st Reading May 12th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide authority for borrowing moneys for the Consolidated Revenue Fund. The principal borrowings authorized under the *Ontario Loan Act* in recent years have been:

1. Borrowings from the Canada Pension Plan
2. The Ontario Treasury Bill program
3. CMHC Waste Control Loans
4. Federal-Provincial-Municipal Loan programs.

The amount of \$3,700,000,000 authorized by the Bill is intended to cover borrowing from the following sources:

1. Canada Pension Plan
2. Teachers' Superannuation Fund
3. The public capital market.

The Bill provides that any unused borrowing authority will expire on September 30, 1984.

Bill 34

1983

**An Act to authorize the
Raising of Money on the Credit
of the Consolidated Revenue Fund**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The Lieutenant Governor in Council is hereby authorized to raise from time to time by way of loan in any manner provided by the *Financial Administration Act* such sum or sums of money as are considered necessary for discharging any indebtedness or obligation of Ontario, for making any payments authorized or required by any Act to be made out of the Consolidated Revenue Fund or for reimbursing the Consolidated Revenue Fund for any moneys expended for any of such purposes, provided that the principal amount of any securities issued and temporary loans raised under the authority of this Act shall not exceed in the aggregate \$3,700,000,000.

Loans up to
\$3,700,000,000

R.S.O. 1980,
c. 161

(2) The sum of money authorized to be raised by subsection (1) for the purposes mentioned therein shall include the principal amounts of Province of Ontario debentures issued to the Teachers' Superannuation Fund under authority of the *Teachers' Superannuation Act* and to the Ontario Municipal Employees Retirement Fund under authority of the *Ontario Municipal Employees Retirement System Act*, but shall be in addition to all sums of money authorized to be raised by way of loan under any other Act.

Idem

R.S.O. 1980,
cc. 494, 348

2. No money shall be raised by way of loan under subsection 1 (1) except to the extent authorized by order of the Lieutenant Governor in Council made prior to the 30th day of September, 1984.

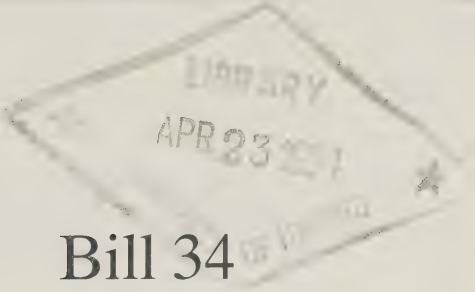
Limitation

3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

4. The short title of this Act is the *Ontario Loan Act*, 1983.

Short title



Bill 34

*(Chapter 28
Statutes of Ontario, 1983)*

An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

The Hon. F. S. Miller

Treasurer of Ontario and Minister of Economics

<i>1st Reading</i>	May 12th, 1983
<i>2nd Reading</i>	May 31st, 1983
<i>3rd Reading</i>	June 3rd, 1983
<i>Royal Assent</i>	June 6th, 1983

Bill 34

1983

**An Act to authorize the
Raising of Money on the Credit
of the Consolidated Revenue Fund**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The Lieutenant Governor in Council is hereby authorized to raise from time to time by way of loan in any manner provided by the *Financial Administration Act* such sum or sums of money as are considered necessary for discharging any indebtedness or obligation of Ontario, for making any payments authorized or required by any Act to be made out of the Consolidated Revenue Fund or for reimbursing the Consolidated Revenue Fund for any moneys expended for any of such purposes, provided that the principal amount of any securities issued and temporary loans raised under the authority of this Act shall not exceed in the aggregate \$3,700,000,000.

Loans up to
\$3,700,000,000
R.S.O. 1980,
c. 161

(2) The sum of money authorized to be raised by subsection (1) for the purposes mentioned therein shall include the principal amounts of Province of Ontario debentures issued to the Teachers' Superannuation Fund under authority of the *Teachers' Superannuation Act* and to the Ontario Municipal Employees Retirement Fund under authority of the *Ontario Municipal Employees Retirement System Act*, but shall be in addition to all sums of money authorized to be raised by way of loan under any other Act.

Idem

R.S.O. 1980,
cc. 494, 348

2. No money shall be raised by way of loan under subsection 1 (1) except to the extent authorized by order of the Lieutenant Governor in Council made prior to the 30th day of September, 1984.

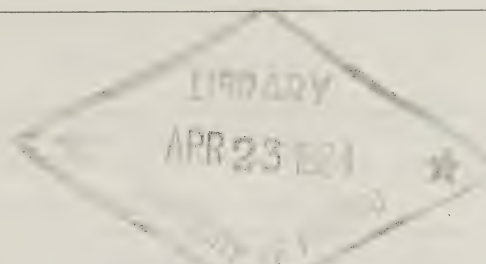
Limitation

3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

4. The short title of this Act is the *Ontario Loan Act*, 1983.

Short title



Bill 35

An Act to amend the Tobacco Tax Act

The Hon. G.L. Ashe
Minister of Revenue

1st Reading May 12th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

GENERAL. This Bill enacts proposals in the Treasurer's Budget to increase the rate of tax on tobacco products to 45 per cent of the taxable price per cigarette or gram of tobacco. In addition to these changes, other administrative changes are proposed that will clarify the application of the Act.

SECTION 1.—Subsection 1. This subsection increases the rate of tax payable by consumers on the purchase of cigarettes to 45 per cent of the taxable price per cigarette. Clause 2 (1) (a) now reads as follows:

(a) 40 per cent of the taxable price per cigarette on every cigarette purchased by him.

Subsection 2. This subsection increases the rate of tax payable by consumers on the purchase of a gram of any tobacco, other than cigarettes or cigars, to 45 per cent of the taxable price per gram. Clause 2 (1) (b) now reads as follows:

(b) 40 per cent of the taxable price per gram on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him; and

SECTION 2.—Subsection 1. This subsection permits the Lieutenant Governor in Council to provide by regulation a formula for determining the rate of interest payable under the Act and the method of calculating that interest. Clause 28 (1) (i) now reads as follows:

(i) prescribing the rate of interest payable on amounts payable to or to be remitted to the Treasurer under this Act.

Subsection 2. This subsection permits the Lieutenant Governor in Council to provide by regulation for the delegation of the powers and duties of the Minister under the regulations. Clause 28 (1) (n) now reads as follows:

(n) authorizing or requiring the Deputy Minister or any other officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act.

Bill 35

1983

An Act to amend the Tobacco Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 2 (1) (a) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1982, chapter 17, section 1, is amended by striking out “40” in the first line and inserting in lieu thereof “45”. s. 2 (1) (a),
amended

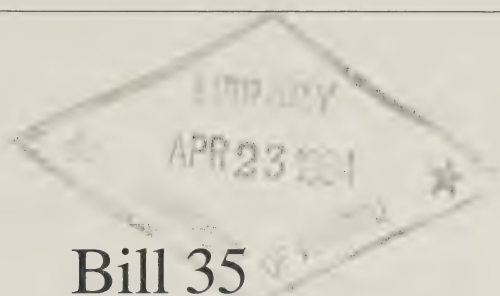
(2) Clause 2 (1) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 17, section 1, is amended by striking out “40” in the first line and inserting in lieu thereof “45”. s. 2 (1) (b),
amended

2.—(1) Clause 28 (1) (i) of the said Act is amended by adding at the end thereof “or a formula for computing that rate, and the method of calculating that interest”. s. 28 (1) (i),
amended

(2) Clause 28 (1) (n) of the said Act is amended by adding at the end thereof “or the regulations”. s. 28 (1) (n),
amended

3. This Act shall be deemed to have come into force on the 11th day of May, 1983. Commencement

4. The short title of this Act is the *Tobacco Tax Amendment Act, 1983*. Short title



Bill 35

(Chapter 25
Statutes of Ontario, 1983)

An Act to amend the Tobacco Tax Act

The Hon. G.L. Ashe
Minister of Revenue

<i>1st Reading</i>	May 12th, 1983
<i>2nd Reading</i>	May 24th, 1983
<i>3rd Reading</i>	May 26th, 1983
<i>Royal Assent</i>	May 26th, 1983

Bill 35

1983

An Act to amend the Tobacco Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 2 (1) (a) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1982, chapter 17, section 1, is amended by striking out “40” in the first line and inserting in lieu thereof “45”. s. 2 (1) (a),
amended

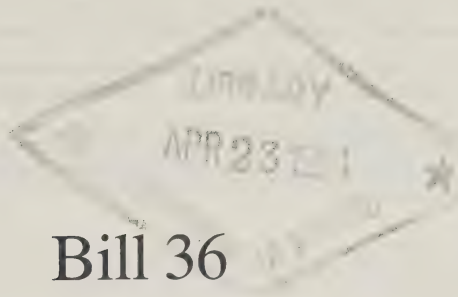
(2) Clause 2 (1) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 17, section 1, is amended by striking out “40” in the first line and inserting in lieu thereof “45”. s. 2 (1) (b),
amended

2.—(1) Clause 28 (1) (i) of the said Act is amended by adding at the end thereof “or a formula for computing that rate, and the method of calculating that interest”. s. 28 (1) (i),
amended

(2) Clause 28 (1) (n) of the said Act is amended by adding at the end thereof “or the regulations”. s. 28 (1) (n),
amended

3. This Act shall be deemed to have come into force on the 11th day of May, 1983. Commencement

4. The short title of this Act is the *Tobacco Tax Amendment Act, 1983*. Short title



Bill 36

An Act to amend the Small Business Development Corporations Act

The Hon. G.L. Ashe
Minister of Revenue

1st Reading May 12th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

GENERAL. The Bill implements the following proposals in the Treasurer's Budget and as well enacts certain changes required in the effective administration of the Act:

- (a) The maximum investment in any one project by one or more small business development corporations will be limited to \$5,000,000.
- (b) The definition of a small business in which a small business development corporation may invest will change from 100 to 150 employees with the small business being able to expand to 300 instead of 200 employees before ceasing to be an eligible investment.

SECTION 1. The amendment repeals subsection 7 (5) which is made redundant by the amendment to clause 9 (1) (eb), set out in section 3 of the Bill.

Subsection 7 (5) now reads as follows:

(5) A small business development corporation shall not maintain more than \$5,000,000 of its equity capital in any single small business.

SECTION 2. The amendment enacts new subsection 8 (2a) which will permit the Minister the discretion to pay out of any moneys still held in the trust fund under section 8 an amount, calculated in a manner to be prescribed, to a shareholder of the small business development corporation upon the acquisition by the small business development corporation of issued equity shares from such shareholder.

SECTION 3. The amendment provides that the maximum investment in any one small business by any number of small business development corporations shall not exceed in the aggregate \$5,000,000.

Clause 9 (1) (eb) now reads as follows:

(eb) the aggregate of eligible investments made by the small business development corporation in any small business does not exceed \$5,000,000.

SECTION 4. The amendment provides that a small business development corporation shall not invest or maintain an investment in securities (debt or equity) of any corporation that is or was a small business upon the happening of the events listed in subsection 12 (1).

Subsection 1. The amendment to the introductory words of subsection 12 (1) provides that the investment may not be made or maintained in any security of a small business or former small business.

The introductory words of subsection 12 (1) now read as follows:

(1) A small business development corporation shall not invest or maintain an investment in a small business if,

Subsections 2 and 3. The amendments change the references in clause 12 (1) (a) and sub-clause 12 (1) (a) (ii) from "small business" to "corporation".

Subsection 4. The amendment will prohibit a small business development corporation from investing or maintaining an investment in a small business or a former small business if the small business development corporation either alone or together with its shareholders, associates, affiliated corporations or associates or affiliated corporations of its shareholders holds more than 49 per cent of the equity shares of the small business or former small business.

Clause 12 (1) (b) now reads as follows:

(b) such small business is a subsidiary, a holding corporation or affiliated corporation of the small business development corporation; or

Subsections 5 and 6. The amendments change the references in clauses 12 (1) (c) and 12 (1) (d) from “small business” to “corporation”.

SECTION 5.—Subsection 1. This amendment provides that an eligible investment will remain an eligible investment for a period of two years after a material change, in most cases, provided that the investment is not prohibited under subsection 12 (1).

Subsection 13 (3) now reads as follows:

(3) Where there is a material change, the investment by a small business development corporation shall remain an eligible investment, notwithstanding any other provision of this Act, for a period of two years from the date of the material change.

Subsection 2. The amendment provides that when an eligible investment ceases to be an eligible investment by reason only that the small business exceeds the number of prescribed employees but does not exceed the prescribed maximum permitted employees, the small business will still be an eligible investment. The maximum number of employees will be prescribed to be 150 and the maximum number of permitted employees will be prescribed to be 300 by regulation.

Subsection 13 (4) now reads as follows:

(4) Notwithstanding subsection (3), where a material change occurs by reason only of a small business exceeding the prescribed number of employees, no material change shall be deemed to have occurred until the small business has 200 or more employees, excluding directors and officers of the corporation.

SECTION 6. The amendment to subsection 21 (5) of the Act makes it clear that a pension fund that would not otherwise be a person ordinarily resident in Ontario within the meaning of subsection 21 (4), will be deemed to be a person ordinarily resident in Ontario if it meets the prescribed terms and conditions and is consequent upon the Treasurer’s Budget proposal on pension funds.

SECTION 7. The amendment provides for expanded powers to the Lieutenant Governor and the Minister with respect to the making of regulations necessary to carry out the provisions of the Act.

Subsection 1. The amendment permits the Lieutenant Governor to prescribe the rate of interest for the purposes required by the Act and the method by which it is calculated.

Subsection 2. The amendment permits the Minister to delegate authority conferred under the Act or the regulations thereunder to officials of the Ministry of Revenue.

Bill 36

1983

**An Act to amend the
Small Business Development Corporations Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 7 (5) of the *Small Business Development Corporations Act*, being chapter 475 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1981, chapter 35, section 3, is repealed. s. 7 (5),
repealed

2. Section 8 of the said Act is amended by adding thereto the following subsection: s. 8,
amended

(2a) Subject to subsection (3), while any amount is held in trust under subsection (1), the Minister may permit payment from the fund to a shareholder of the small business development corporation, of an amount calculated in the prescribed manner, when equity shares of the small business development corporation are acquired by the small business development corporation by redemption, purchase or otherwise from such shareholder. Idem

3. Clause 9 (1) (eb) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 35, section 4, is amended by striking out “made by the small business development corporation” in the first and second lines and inserting in lieu thereof “made by all small business development corporations”. s. 9 (1) (eb),
amended

4.—(1) Subsection 12 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 35, section 5, is further amended by striking out “in a small business” in the second line and inserting in lieu thereof “in a security issued by a corporation which is or was at any time a small business”. s. 12 (1),
amended

(2) Clause 12 (1) (a) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 35, section 5, is further amended by striking out “small business” in the first line and inserting in lieu thereof “corporation”. s. 12 (1) (a),
amended

s. 12 (1) (a)
(ii),
amended

(3) Subclause 12 (1) (a) (ii) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 35, section 5, is amended by striking out "small business" in the third and fourth lines and inserting in lieu thereof "corporation".

s. 12 (1) (b),
re-enacted

(4) Clause 12 (1) (b) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 35, section 5, is repealed and the following substituted therefor:

- (b) the small business development corporation, together with its shareholders and any associates and affiliated corporations, and any associates and affiliated corporations of its shareholders, would hold more than 49 per cent of the issued and outstanding equity shares of such corporation; or

s. 12 (1) (c),
amended

(5) Clause 12 (1) (c) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 35, section 5, is amended by striking out "small business" in the first line, in the second line and in the third line and inserting in lieu thereof in each instance "corporation".

s. 12 (1) (d),
amended

(6) Clause 12 (1) (d) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 35, section 5, is repealed and the following substituted therefor:

- (d) the aggregate of eligible investments made by two or more small business development corporations in such corporation will exceed 60 per cent of the issued and outstanding equity shares of the corporation.

s. 13 (3),
amended

5.—(1) Subsection 13 (3) of the said Act is amended by inserting after "Act" in the fourth line "except subsection 12 (1)".

s. 13 (4),
re-enacted

(2) Subsection 13 (4) of the said Act is repealed and the following substituted therefor:

Where
prescribed
number of
employees
exceeded

(4) Notwithstanding subsection (3), where a material change occurs by reason only of a small business exceeding the prescribed number of employees, no material change shall be deemed to have occurred until the small business and any affiliated corporations have more than the prescribed number of maximum permitted employees, determined in the prescribed manner.

6. Subsection 21 (5) of the said Act is amended by inserting at the commencement thereof “Notwithstanding anything in this section”. s. 21 (5),
amended

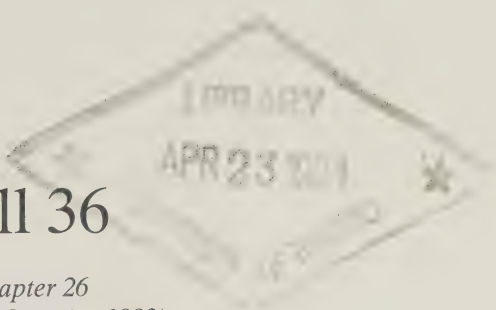
7.—(1) Subsection 34 (1) of the said Act is amended by adding thereto the following clause: s. 34 (1),
amended

(ja) prescribing any rate of interest that is to be prescribed and the method by which it is to be calculated.

(2) Clause 34 (2) (c) of the said Act is amended by inserting after “Act” in the second line “or the regulations”. s. 34 (2) (c),
amended

8. This Act shall be deemed to have come into force on the 11th day of May, 1983. Commence-
ment

9. The short title of this Act is the *Small Business Development Corporations Amendment Act, 1983*. Short title



Bill 36

*(Chapter 26
Statutes of Ontario, 1983)*

An Act to amend the Small Business Development Corporations Act

The Hon. G.L. Ashe
Minister of Revenue

<i>1st Reading</i>	May 12th, 1983
<i>2nd Reading</i>	May 24th, 1983
<i>3rd Reading</i>	May 26th, 1983
<i>Royal Assent</i>	May 26th, 1983

Bill 36

1983

An Act to amend the Small Business Development Corporations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 7 (5) of the *Small Business Development Corporations Act*, being chapter 475 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1981, chapter 35, section 3, is repealed. s. 7 (5),
repealed

2. Section 8 of the said Act is amended by adding thereto the following subsection: s. 8,
amended

(2a) Subject to subsection (3), while any amount is held in trust under subsection (1), the Minister may permit payment from the fund to a shareholder of the small business development corporation, of an amount calculated in the prescribed manner, when equity shares of the small business development corporation are acquired by the small business development corporation by redemption, purchase or otherwise from such shareholder. Idem

3. Clause 9 (1) (eb) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 35, section 4, is amended by striking out “made by the small business development corporation” in the first and second lines and inserting in lieu thereof “made by all small business development corporations”. s. 9 (1) (eb),
amended

4.—(1) Subsection 12 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 35, section 5, is further amended by striking out “in a small business” in the second line and inserting in lieu thereof “in a security issued by a corporation which is or was at any time a small business”. s. 12 (1),
amended

(2) Clause 12 (1) (a) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 35, section 5, is further amended by striking out “small business” in the first line and inserting in lieu thereof “corporation”. s. 12 (1) (a),
amended

s. 12 (1) (a)
(ii),
amended

(3) Subclause 12 (1) (a) (ii) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 35, section 5, is amended by striking out "small business" in the third and fourth lines and inserting in lieu thereof "corporation".

s. 12 (1) (b),
re-enacted

(4) Clause 12 (1) (b) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 35, section 5, is repealed and the following substituted therefor:

- (b) the small business development corporation, together with its shareholders and any associates and affiliated corporations, and any associates and affiliated corporations of its shareholders, would hold more than 49 per cent of the issued and outstanding equity shares of such corporation; or

.

s. 12 (1) (c),
amended

(5) Clause 12 (1) (c) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 35, section 5, is amended by striking out "small business" in the first line, in the second line and in the third line and inserting in lieu thereof in each instance "corporation".

s. 12 (1) (d),
amended

(6) Clause 12 (1) (d) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 35, section 5, is repealed and the following substituted therefor:

- (d) the aggregate of eligible investments made by two or more small business development corporations in such corporation will exceed 60 per cent of the issued and outstanding equity shares of the corporation.

s. 13 (3),
amended

5.—(1) Subsection 13 (3) of the said Act is amended by inserting after "Act" in the fourth line "except subsection 12 (1)".

s. 13 (4),
re-enacted

(2) Subsection 13 (4) of the said Act is repealed and the following substituted therefor:

Where
prescribed
number of
employees
exceeded

(4) Notwithstanding subsection (3), where a material change occurs by reason only of a small business exceeding the prescribed number of employees, no material change shall be deemed to have occurred until the small business and any affiliated corporations have more than the prescribed number of maximum permitted employees, determined in the prescribed manner.

6. Subsection 21 (5) of the said Act is amended by inserting at the commencement thereof “Notwithstanding anything in this section”.

s. 21 (5),
amended

7.—(1) Subsection 34 (1) of the said Act is amended by adding thereto the following clause:

s. 34 (1),
amended

(ja) prescribing any rate of interest that is to be prescribed and the method by which it is to be calculated.

(2) Clause 34 (2) (c) of the said Act is amended by inserting after “Act” in the second line “or the regulations”.

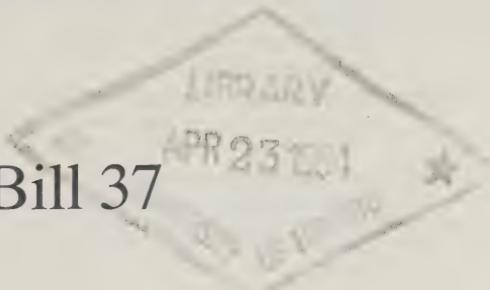
s. 34 (2) (c),
amended

8. This Act shall be deemed to have come into force on the 11th day of May, 1983.

Commence-
ment

9. The short title of this Act is the *Small Business Development Corporations Amendment Act, 1983*.

Short title



Bill 37

An Act to amend the Retail Sales Tax Act

The Hon. G. L. Ashe
Minister of Revenue

1st Reading May 12th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

GENERAL. The Bill implements the following proposals in the Treasurer's Budget:

- (a) The exemption from tax for tobacco products is withdrawn and tax is applied at the rate of 7 per cent;
- (b) The tax rate on beverage alcohol sold through Ontario Liquor Control Board stores, Brewers' Warehousing outlets, brewery and winery stores is increased to 12 per cent;
- (c) The exemption from tax on the price of admission to places of amusement is increased to \$4.00;
- (d) The exemption from tax for machinery and equipment purchased by manufacturers and producers is broadened to parallel the exemption for production equipment under the *Excise Tax Act* (Canada);
- (e) An exemption from tax is provided to schools, school boards, universities and public libraries on their purchases of audio and video educational publications;
- (f) The purchaser of Maple Leaf Gold Coins is exempt from tax;
- (g) Trucks, truck tractors, truck trailers, tractor trailers and semi-trailers having a gross vehicle mass rating of 11,778 kilograms or more may be purchased exempt of tax;
- (h) A temporary exemption is provided to the purchasers of new residential furniture, curtains, drapes, blinds, floor coverings and major home appliances;
- (i) The Minister is empowered to make regulations establishing a rebate of tax on the purchase of vehicles required to be licensed under the *Highway Traffic Act* that are converted for operation on alternate fuels within thirty days of sale.

In addition to these changes, other administrative changes are proposed that will clarify the application of the Act.

SECTION 1. The amendment includes tax payable under the *Tobacco Tax Act* in the computation of the fair value on which tax is levied. The section also repeals the definition of "registered consumer" which is no longer required. Paragraph 14 of section 1 to be repealed now reads as follows:

14. "registered consumer" means a person who brings or imports into Ontario tangible personal property for his own use or consumption that has a fair value exceeding \$100 in each of two months or more during a calendar year and who holds a valid consumer's permit.

SECTION 2.—Subsection 1. This subsection increases the tax rate on beverage alcohol sold through Ontario Liquor Control Board stores, Brewers' Warehouse outlets, brewery and winery stores to 12 per cent. Subsection 2 (2) of the Act now reads as follows:

(2) Every purchaser of liquor, beer or wine shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof computed at the rate of 10 per cent of the fair value thereof.

Subsection 2. This subsection increases the exemption from tax on the price of admission to places of amusement to \$4.00. Subsection 2 (4) of the Act now reads as follows:

(4) Every purchaser of admission to a place or places of amusement shall pay to Her Majesty in right of Ontario a tax computed at the rate of 10 per cent of the price of admission where the price of admission exceeds \$3.50.

Subsection 3. This subsection establishes the time at which the purchaser is required to pay the tax under subsection 2 (4). Subsection 2 (5) now reads as follows:

(5) A purchaser shall pay the tax imposed by this Act at the time of the sale.

Subsection 4. This subsection provides that only one application for refund may be made with respect to any amount paid as tax. Subsection 2 (9) now reads as follows:

(9) *Where a person has paid an amount under this Act as tax that is not payable as tax under this Act and the amount was not paid by the person to discharge liability under an assessment made under this Act, such amount shall be refunded if, within three years following the date of payment of such amount, an application for the refund is made to the Minister and it is established within such three years to the satisfaction of the Minister that the amount that may be refunded was not payable as tax under this Act, and where the amount shown not to have been payable as tax under this Act was paid in the course of performing a contract under which a party to the contract, other than the person who paid such amount, reimbursed the person for such amount so paid, the amount that may be refunded under this subsection may be paid to such party.*

SECTION 3. This section provides that a vendor shall notify the Minister of a change in the name or nature of his business.

SECTION 4.—Subsection 1. This subsection removes the general exemption for tax on labour to maintain, restore or repair tangible personal property where the repairs or repair parts are the subject of a rebate under the Act or regulations. Specific exemptions for repairs and repair parts are provided in the Bill. Clause (c) of paragraph 2 of subsection 5 (1) now reads as follows:

(c) provided to maintain, restore or repair tangible personal property where the repairs or repair parts used in the maintenance, restoration or repair may be purchased exempt from tax or where a rebate of the tax paid on those repairs or repair parts is provided under this Act or the regulations.

Subsection 2. This subsection clarifies the exemption for vehicles powered by fuels other than gasoline or diesel oil to confirm that vehicles that operate on a mixture of fossil and alternate fuels, for example, gasohol, are excluded from the exemption. Paragraph 14 of subsection 5 (1) now reads as follows:

14. vehicles that are required to be licensed under the Highway Traffic Act and the energy to operate which is either,

(a) exclusively electrical energy or energy derived from internal combustion of ethanol, methanol, natural gas or manufactured gas, or

(b) a combination of such energy with any fuel taxed under the Gasoline Tax Act, the Motor Vehicle Fuel Tax Act or the Fuel Tax Act, 1981.

Subsection 3. This subsection exempts from tax labour provided to install conversion kits to convert vehicles powered by fossil fuels to alternate power sources.

Paragraph 14a of subsection 5 (1) now reads as follows:

14a. tangible personal property sold as a conversion kit to be used to convert any vehicle powered by a gasoline or diesel engine into a vehicle that meets all of the requirements for exemption under paragraph 14.

Subsection 4. This subsection removes the reference to a Ministerial definition of farm, hog and poultry fence which is not required. Paragraph 20 of subsection 5 (1) now reads as follows:

20. farm, hog and poultry fence, as defined by the Minister.

Subsections 5, 6, 7, 8, 9, 10 and 11. These subsections extend the exemptions from tax available to purchasers of certain articles of tangible personal property to include repair parts and accessories for those articles. The affected paragraphs of subsection 5 (1) now read as follows:

27. *fire-fighting vehicles, as defined by the Minister, when purchased at a price of more than \$1,000 per vehicle for the exclusive use of a municipality, university, public hospital, local services board or volunteer group;*

36. *artificial limbs and any prosthetic appliance or equipment as defined by the Minister;*

37. *orthopaedic appliances;*

38. *equipment designed solely for the use of persons who are chronic invalids or physically handicapped;*

39. *hearing aids;*

40. *dentures and dental appliances;*

41. *optical appliances when sold on the prescription of a physician or an optometrist;*

Subsection 12. This subsection repeals an exemption that will now be available under paragraph 45. Paragraph 43 now reads as follows:

43. *dies, jigs, product-holding fixtures, moulds and patterns for any of them, tools attached to production machinery, and explosives and refractory materials, all as defined by the Minister, and expended or used up in the process of manufacturing tangible personal property for sale or use.*

Subsection 13. This subsection repeals an exemption available to manufacturers and producers that will now be available under paragraph 45. Paragraph 44 of subsection 5 (1) now reads as follows:

44. *materials (except grease, lubricating oil or fuel for use in internal combustion engines) that are purchased to be used up or expended by a manufacturer or by a producer directly in,*

(a) *the manufacture or production of tangible personal property or in the research or development by such manufacturer or producer of either,*

(i) *goods for his own manufacture or production or for the manufacture or production of others, or*

(ii) *manufacturing or production processes for his use or the use of others,*

(b) *the detection, measurement, prevention, treatment, reduction or removal of pollutants in air, water or soil that are attributable to manufacturing or producing operations, or*

(c) *a manufacturing or production process prescribed by the Minister for this clause and when the materials so used up or expended are prescribed by the Minister for the purpose of this clause.*

Subsection 14. This subsection broadens the exemption from tax for machinery and equipment purchased by manufacturers and producers to parallel the exemption under the *Excise Tax Act* (Canada). Paragraph 45 of subsection 5 (1) now reads as follows:

45. *machinery or equipment purchased for the use of a manufacturer, or for the use of a producer, if such machinery or equipment is,*

- (a) *to be used directly in the manufacture or production of tangible personal property or is to be used directly in, and exclusively for, the research or development by such manufacturer or producer of either,*
 - (i) *goods for his own manufacture or production or for the manufacture or production of others, or*
 - (ii) *manufacturing or production processes for his use or the use of others,*
- (b) *to be used by such manufacturer or producer directly in the detection, measurement, prevention, treatment, reduction or removal of pollutants in air, water or soil that are attributable to manufacturing or producing operations,*
- (c) *to be used by such manufacturer or producer to carry away refuse or waste from machinery or equipment used directly in the manufacture or production of tangible personal property, or to be used to exhaust or expel dust or noxious fumes produced in the manufacturing or producing operations of such manufacturer or producer,*
- (d) *a gasoline-powered or diesel-powered self-propelled truck mounted on rubber-tired wheels that is not operated on the highway and that is used exclusively at mines or quarries,*
- (e) *a tractor (other than a highway truck tractor) powered by an internal combustion engine, a logging wagon, logging sled, logging car or logging crane, wire rope, blocks and tackle, or machinery, and is used exclusively in logging operations including the removal of the log from the stump to the skidway, log dump, or to a common or other carrier,*
- (f) *pipes, tubing, casings, fittings, couplings, thread protectors and nipples therefor, and drilling pipe that are commonly known as "oil country goods" and are used in connection with natural gas or oil wells, or*
- (g) *machinery, equipment and apparatus, including wire rope, drilling bits, drilling mud and seismic shot-hole casing, to be used in the exploration for, or in the discovery or development of, petroleum, natural gas or minerals,*

but the exemption conferred by this paragraph does not apply to any type or class of machinery or equipment prescribed by the Minister to be excluded from this paragraph, or to any machinery or equipment used in any manner, process, industry, enterprise or by any person prescribed by the Minister as not entitled to the exemption conferred by this paragraph.

Subsection 15. This subsection confirms that an exemption is available only with respect to tangible personal property used to fabricate or prepare tangible personal property for resale. Paragraph 46 of subsection 5 (1) now reads as follows:

- 46. tangible personal property purchased for the purpose of being processed, fabricated or manufactured into, attached to, or incorporated into, tangible personal property for the purpose of sale or use.*

Subsection 16. This subsection provides an exemption from tax to schools, school boards, universities and public libraries that purchase audio and video educational publications.

Subsection 17. This subsection removes the reference to a Ministerial definition of works of art. Paragraph 59 of subsection 5 (1) now reads as follows:

- 59. works of art, as defined by the Minister, purchased by a museum or art gallery more than 50 per cent of the revenue of which is provided by public donations and grants by public bodies.*

Subsection 18. This subsection provides an exemption for the purchaser of Maple Leaf Gold Coins.

Subsection 19. This subsection withdraws an exemption with respect to certain articles of tangible personal property that will now be exempt under paragraph 45. Paragraph 64 of subsection 5 (1) now reads as follows:

64. machinery and apparatus and parts thereof, as defined by the Minister, purchased by advertisers or their agents that, in the opinion of the Minister, are used to produce advertisements exclusively in newspapers or magazines.

Subsection 20. This subsection withdraws the exemption for tobacco products and substitutes an exemption for trucks, truck tractors, truck trailers, tractor trailers and semi-trailers having a gross vehicle mass rating of 11,778 kilograms or more. Paragraph 70 of subsection 5 (1) now reads as follows:

70. tobacco products taxed under the Tobacco Tax Act.

Subsection 21. This subsection provides a temporary exemption to the purchasers of new residential furniture, curtains, drapes, blinds and floor coverings and to the purchasers of major home appliances.

SECTION 5. This section increases the penalties which a court may impose when a vendor is guilty of failing to remit tax to the Treasurer as required under the Act. Section 11 now reads as follows:

11. All taxes collected by a vendor under this Act, and all amounts collected as or on account of tax by a vendor under this Act, shall, subject to subsection 2 (12), be remitted to the Treasurer at the time or times and in such manner as are prescribed by the regulations, and every vendor who fails so to remit the tax or amounts so collected by him is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on conviction to a fine of not less than \$25 and no more than \$1,000 plus, in an appropriate case, an amount of not more than double the amount of tax collected and amounts collected as or on account of tax under this Act that were not remitted to the Treasurer as required by this Act or the regulations.

SECTION 6. This section repeals a provision with respect to registered consumers that is no longer required. Subsection 13 (2) now reads as follows:

(2) Every registered consumer shall make returns to the Minister and shall keep such records in the form and substance as are prescribed by the regulations, and any failure so to do constitutes an offence against this Act.

SECTION 7. This section provides for the assessment of a penalty under subsection 30 (1) or (2) where a vendor fails to make a return or remit tax and for the assessment of the liability owed by a person dealing with a non-resident contractor who fails to deduct from payments under the contract the amount required under subsection 37 (4) on account of tax payable by the contractor and to remit such amount to the Treasurer as agent for the contractor.

SECTION 8. This section increases the penalty payable by a purchaser who understates the fair value of tangible personal property on which he is liable to pay tax. Subsection 17 (5) now reads as follows:

(5) Every purchaser who, at a sale in Ontario, acquires or purchases from a person who is not a vendor within the meaning of this Act tangible personal property for the consumption of which the purchaser is liable to pay tax under this Act and who understates the fair value of such tangible personal property in any written statement or document signed by him or under his authority shall, when assessed therefor, pay a penalty of,

(a) not less than an amount equal to the greater of,

(i) \$25, or

- (ii) *the unpaid tax applicable to the amount by which he understated the fair value of such tangible personal property;*

and

- (b) *not more than \$500,*

and such penalty shall be in addition to the tax properly payable by him on his consumption of such tangible personal property.

SECTION 9. This section provides for amounts assessed to be payable forthwith where, in the opinion of the Minister, the person liable to pay the tax, penalty or other amount assessed, may attempt to avoid payment. Subsection 18 (2) now reads as follows:

(2) Where in the opinion of the Minister a vendor or a purchaser is attempting to avoid payment of the tax imposed by this Act or where the Minister has assessed the tax payable under this Act pursuant to subsection 16 (1), (2) or (3), he may, notwithstanding subsection 16 (4) or (5), serve the notice of assessment upon the vendor or the purchaser, as the case may be, and, if the vendor or the purchaser is a partnership or a corporation, the notice of assessment may be served on a partner or the president, manager, secretary or other director, agent or representative thereof, and the Minister may direct that all taxes as set out therein shall be paid forthwith.

SECTION 10. This section amends section 30 of the Act to increase the penalties payable when a person is convicted of offences under the Act. Two provisions related to registered consumers, which are no longer required, are repealed. Section 30 now reads as follows:

30.—(1) Every vendor who fails to deliver a return as required by this Act and the regulations, or who fails to remit with his return the amount of taxes collectable or payable by him as shown therein, shall pay a penalty of,

- (a) an amount equal to 5 per cent of the tax that was collectable and of the tax that was payable by him for the period covered by the return, if the amount of such tax was less than \$10,000; or*
- (b) \$500, if the amount of such tax was \$10,000 or more.*

(2) Every vendor who fails to complete the information required on the return to be delivered under section 13 is liable to a penalty of 1 per cent of the tax collectable by him for the period covered by the return, but such penalty shall not in any case be less than \$20 or more than \$100.

- (3) Every person who has,*

- (a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer, delivered or made as required by or under this Act or the regulations;*
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of the vendor or purchaser;*
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries or omitted, or assented to or acquiesced in the omission, to enter a material particular in records or books of account of a vendor or purchaser;*
- (d) wilfully, in any manner, evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or*
- (e) conspired with any person to commit any offence described in clauses (a) to (d),*

is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on conviction to a fine of not less than \$25 and not more than \$10,000 plus, in an appropriate

case, an amount of not more than double the amount of the tax that should have been declared to be collectable or payable or that was sought to be evaded, or to imprisonment for a term of not more than two years, or to both.

(4) Every registered consumer who fails to deliver a return when required shall pay a penalty of,

(a) an amount equal to 5 per cent of the tax that was payable by him for the period covered by the return, if the amount of such tax was less than \$10,000; or

(b) \$500, if the amount of such tax was \$10,000 or more.

(5) Every registered consumer who fails to complete the information required on the return to be delivered under subsection 13 (2) is liable to a penalty of 1 per cent of the tax payable by him for the period covered by the return, but such penalty shall not in any case be less than \$20 or more than \$100.

SECTION 11. This section provides for the payment of interest on assessments under subsection 16a (2) and section 17, where an erroneous refund or rebate is recovered.

Section 32 now reads as follows:

32.—(1) Any amount payable or to be remitted to the Treasurer under this Act bears interest, at such rate as is prescribed by the regulations, from the day on which such amount should have been paid or remitted to the Treasurer to the day of payment or until thirty days following the day on which a notice of assessment is mailed or personally served under subsection 16 (4) or (5), whichever is the earlier date.

(2) The amount due as shown by a notice of assessment made under subsection 16 (4) or (5) shall, if it is not paid within thirty days from the day of mailing or personal service of the notice of assessment, bear interest, at such rate as is prescribed by the regulations, calculated from thirty days after the day of mailing or personal service of the notice of assessment until the day of payment.

SECTION 12. This section expands the garnishment provision of the Act to permit garnishment of bank accounts where a vendor has a line of credit or overdraft privileges.

SECTION 13. This section permits the Minister to commence a legal action or issue a warrant having the force and effect of a writ of execution where a person dealing with a non-resident contractor fails to withhold from the payments under the contract and to remit to the Treasurer as agent of the contractor the amount required to be withheld and remitted under subsection 37 (4). Subsection 35 (1) now reads as follows:

(1) Upon default of payment by a vendor or purchaser of any tax collectable or payable under this Act,

(a) the Minister may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred and shall be tried without a jury;

(b) the Minister may issue a warrant directed to the sheriff of any county or district in which any property of a person liable to make a payment or remittance under this Act is located or situate for the amount of the tax owing by him, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

SECTION 14. This section deletes a reference to a registered consumer no longer required and increases the penalty where a vendor is convicted of failing to deliver a return or keep proper records or where he interferes with or hinders an audit or investigation. Section 39 now reads as follows:

39.—(1) Every vendor or registered consumer who has failed to deliver a return as and when required by this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$25 for each day during which the default continues.

(2) Every person who contravenes section 14 or 29 is guilty of an offence and on conviction is liable to a fine of \$25 for each day during which the default continues.

SECTION 15. This section provides a general penalty for any offence under the Act for which no specific penalty is provided; the penalty on conviction for a failure to collect tax is increased. Subsections 41 (1) and (2) now read as follows:

(1) Subject to subsection (2), a person guilty of an offence against this Act is liable on conviction to a fine of not less than \$10 and not more than \$1,000.

(2) Every person who fails to collect the tax imposed by this Act is liable on conviction to a fine equal to the amount of the tax that should have been collected as determined under subsection (3) and, in addition, an amount not less than \$10 and not more than \$1,000.

SECTION 16.—Subsection 1. This subsection permits the Lieutenant Governor to provide by regulation for the delegation of the powers and duties of the Minister under the regulations. Clause 45 (2) (b) now reads as follows:

(b) authorizing or requiring the Deputy Minister or any other officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act.

Subsection 2. This subsection permits the Lieutenant Governor in Council to provide by regulation a formula for determining the rate of interest payable under the Act and regulations and the method of calculating that interest. Clause 45 (2) (g) now reads as follows:

(g) prescribing the rates of interest payable under this Act.

Subsection 3. This subsection permits the Lieutenant Governor in Council to prescribe gold coins, other than Maple Leaf Gold Coins, that may be purchased exempt of tax and to prescribe certain circumstances or situations where the exemption from tax on the price of admission contained in subsection 7 (2) of the Act will not apply.

Subsection 4. This subsection permits the Minister to make regulations related to the application for, and conditions attached to the issue of, a vendor's permit. Clause 45 (3) (g) which provides a rebate for parts used to increase the capacity of production machinery which will now be exempt under paragraph 45 of subsection 5 (1) is no longer required and is repealed. Clause 45 (3) (g) now reads as follows:

(g) providing for the rebate of tax paid on parts that are used to increase the output or capacity of machinery and equipment, the purchase of which would be exempt by clause (a) of paragraph 45 of subsection 5 (1) if the capacity or output of such machinery or equipment is increased by not less than 25 per cent of the original output or capacity specified for such machinery or equipment, and prescribing the conditions on which such rebate may be made and, where the Minister considers it appropriate, the method of calculating in any case or class of cases the increase in output or capacity necessary to meet the requirements of this clause.

Subsection 5. This subsection removes a reference to a day which is now redundant. Clause 45 (3) (i) now reads as follows:

(i) providing for the rebate to persons engaged in the business of farming of tax paid on the consumption after the 22nd day of April, 1980 of tangible personal property for the construction or installation of grain storage bins or grain dryers, and prescribing the basis on which such rebate shall be calculated and the conditions under which it shall be made.

Subsection 6. This subsection permits the Minister to make regulations establishing a rebate of tax paid on the purchase of a motor vehicle that is required to be licensed under the

Highway Traffic Act and that is powered by gasoline or diesel fuel where that vehicle is converted within thirty days to permit its operation on energy provided by an alternate fuel or fuels. Clause 45 (3) (j) which relates to an earlier temporary exemption that has now expired is repealed. Clause 45 (3) (j) now reads as follows:

(j) extending to a date not later than the 30th day of September, 1981, the period within which delivery is required to be made for the purpose of any exemption conferred by paragraph 80, 81 or 82 of subsection 5 (1).

Bill 37

1983

An Act to amend the Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraph 4 of section 1 of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 36, section 1, is further amended by striking out “and” at the end of clause (d), by adding “and” at the end of clause (e) and by adding thereto the following clause:

s. 1, par. 4,
amended

- (f) the tax payable by the purchaser under subsection 2 (1) of the *Tobacco Tax Act*.

R.S.O. 1980,
c. 502

(2) Paragraph 14 of the said section 1 is repealed.

s. 1, par. 14,
repealed

2.—(1) Subsection 2 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 36, section 2, is repealed and the following substituted therefor:

s. 2 (2),
re-enacted

(2) Every purchaser of liquor, beer or wine shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof computed at the rate of,

of liquor,
beer, wine

- (a) 10 per cent of the fair value thereof where the liquor, beer or wine is sold under the authority of a licence issued by the Liquor Licence Board under section 4 of the *Liquor Licence Act*; or

R.S.O. 1980,
c. 244

- (b) 12 per cent of the fair value thereof where the liquor, beer or wine is sold by or under the authority of the Liquor Control Board of Ontario under the *Liquor Control Act*.

R.S.O. 1980,
c. 243

(2) Subsection 2 (4) of the said Act is amended by striking out “\$3.50” in the fourth line and inserting in lieu thereof “\$4.00”.

s. 2 (4),
amended

s. 2 (5),
amended

(3) Subsection 2 (5) of the said Act is amended by adding at the end thereof "or at the time of the payment of a price of admission, or the promotional distribution of an admission".

s. 2 (9),
amended

(4) Subsection 2 (9) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 38, section 1, is further amended by inserting after "Act" in the seventh line "but only one application may be made with respect to any amount paid as tax under this Act".

s. 3,
amended

3. Section 3 of the said Act is amended by adding thereto the following subsection:

Change in
name or
nature of
business

(1a) Where a permit has been issued to a vendor under subsection (1) and the vendor changes the name or nature of his business he shall notify the Minister of the change forthwith and the Minister may issue a new permit, and, where the Minister issues a new permit, the vendor shall return his original permit to the Minister forthwith for cancellation.

s. 5 (1),
par. 2(c),
amended

4.—(1) Clause (c) of paragraph 2 of subsection 5 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 36, section 3, is amended by striking out "or where a rebate of the tax paid on those repairs or repair parts is provided under this Act or the regulations" in the fourth, fifth, sixth and seventh lines.

s. 5 (1),
par. 14,
re-enacted

(2) Paragraph 14 of the said subsection 5 (1), as re-enacted by the Statutes of Ontario, 1982, chapter 36, section 3, is repealed and the following substituted therefor:

R.S.O. 1980,
c. 198

14. vehicles that are required to be licensed under the *Highway Traffic Act* and the energy to operate which is either,

(a) exclusively electrical energy or energy derived from the internal combustion of ethanol, methanol, natural gas or manufactured gas, or

(b) energy described in clause (a), where the vehicle can also operate exclusively on energy derived from a fuel described under the *Fuel Tax Act, 1981* or the *Gasoline Tax Act*,

1981, c. 59;
R.S.O. 1980,
c. 186

but not any vehicle the energy to operate which is a mix of a form of energy described in clause (a) and energy derived from a fuel described under the *Fuel Tax Act, 1981* or the *Gasoline Tax Act*.

(3) Paragraph 14a of the said subsection 5 (1), as enacted by the Statutes of Ontario, 1981, chapter 38, section 2, is amended by adding at the end thereof “including the labour provided to install that conversion kit”.

s. 5 (1),
par. 14a,
amended

(4) Paragraph 20 of the said subsection 5 (1) is amended by striking out “as defined by the Minister”.

s. 5 (1),
par. 20,
amended

(5) Paragraph 27 of the said subsection 5 (1), as re-enacted by the Statutes of Ontario, 1982, chapter 36, section 3, is amended by adding at the end thereof “and repair parts for such vehicles”.

s. 5 (1),
par. 27,
amended

(6) Paragraph 36 of the said subsection 5 (1) is amended by adding at the end thereof “and repair parts for such appliances or equipment”.

s. 5 (1),
par. 36,
amended

(7) Paragraph 37 of the said subsection 5 (1) is amended by adding at the end thereof “and repair parts therefor”.

s. 5 (1),
par. 37,
amended

(8) Paragraph 38 of the said subsection 5 (1), as re-enacted by the Statutes of Ontario, 1982, chapter 36, section 3, is amended by adding at the end thereof “and accessories specifically designed for such equipment and repair parts for such equipment”.

s. 5 (1),
par. 38,
amended

(9) Paragraph 39 of the said subsection 5 (1) is amended by adding at the end thereof “and accessories specifically designed for hearing aids and repair parts for hearing aids”.

s. 5 (1),
par. 39,
amended

(10) Paragraph 40 of the said subsection 5 (1) is amended by adding at the end thereof “and repair parts therefor”.

s. 5 (1),
par. 40,
amended

(11) Paragraph 41 of the said subsection 5 (1) is amended by adding at the end thereof “and repair parts for such appliances”.

s. 5 (1),
par. 41,
amended

(12) Paragraph 43 of the said subsection 5 (1) is amended,

s. 5 (1),
par. 43,
amended

(a) by striking out “dies, jigs, product-holding fixtures, moulds and patterns for any of them, tools attached to production machinery, and” in the first, second and third lines; and

(b) by striking out “all” in the third line and inserting in lieu thereof “both”.

(13) Paragraph 44 of the said subsection 5 (1) is repealed.

s. 5 (1),
par. 44,
repealed

s. 5 (1),
par. 45,
re-enacted

(14) Paragraph 45 of the said subsection 5 (1), as amended by the Statutes of Ontario, 1982, chapter 36, section 3, is repealed and the following substituted therefor:

45. machinery, equipment or processing materials purchased for the use of a manufacturer, or for the use of a producer, to be used directly in the manufacture or production of tangible personal property or directly in, and exclusively for, the research or development by such manufacturer or producer of either,

(a) goods for his own manufacture or production or for the manufacture or production of others, or

(b) manufacturing or production processes for his use or the use of others,

R.S.C. 1970,
c. E-13

if such machinery, equipment or processing materials are described in Part XIII of Schedule III to the *Excise Tax Act* (Canada), but the exemption conferred by this paragraph does not apply to any type or class of machinery or equipment prescribed by the Minister to be excluded from this paragraph, or to any machinery or equipment used in any manner, process, industry, enterprise or by any person prescribed by the Minister as not entitled to the exemption conferred by this paragraph.

s. 5 (1),
par. 46,
amended

(15) Paragraph 46 of the said subsection 5 (1) is amended by striking out "or use" in the fourth line.

s. 5 (1),
amended

(16) The said subsection 5 (1), as amended by the Statutes of Ontario, 1981, chapter 38, section 2 and 1982, chapter 36, section 3, is further amended by adding thereto the following paragraph:

51. publications, as defined by the Minister, purchased by a school, school board or university or by a public library administered under the *Public Libraries Act*.

R.S.O. 1980,
c. 414

s. 5 (1),
par. 59,
amended

(17) Paragraph 59 of the said subsection 5 (1) is amended by striking out "as defined by the Minister" in the first line.

s. 5 (1),
amended

(18) The said subsection 5 (1), as amended by the Statutes of Ontario, 1981, chapter 38, section 2 and 1982, chapter 36, section 3, is further amended by adding thereto the following paragraph:

- 61a. Maple Leaf Gold Coins struck by the Royal Canadian Mint and such other gold coins as are prescribed by regulation.

(19) Paragraph 64 of the said subsection 5 (1) is repealed.

s. 5 (1),
par. 64,
repealed

(20) Paragraph 70 of the said subsection 5 (1) is repealed and the following substituted therefor:

s. 5 (1),
par. 70,
re-enacted

70. highway truck tractors having a gross vehicle mass rating, as defined by the Minister, of 11,778 kilograms or more, trucks designed for the carriage of goods or freight having a gross vehicle mass rating of 11,778 kilograms or more and truck trailers, tractor trailers and semi-trailers designed for the carriage of goods or freight having a gross vehicle mass rating of 11,778 kilograms or more, but the exemption conferred by this paragraph does not apply to trucks, truck tractors, truck trailers, tractor trailers or semi-trailers prescribed by the Minister to be excluded from this paragraph or used in any manner, process, industry, enterprise or by any person or class of persons prescribed by the Minister as not entitled to the exemption conferred by this paragraph.

(21) The said subsection 5 (1), as amended by the Statutes of Ontario, 1981, chapter 38, section 2 and 1982, chapter 36, section 3, is further amended by adding thereto the following paragraphs:

s. 5 (1),
amended

76. furniture, as defined by the Minister, including curtains, drapes and blinds, as defined by the Minister, and floor coverings, as defined by the Minister, that are purchased before the 9th day of August, 1983 for private residential use, if delivery thereof is taken by the purchaser on or after the 11th day of May, 1983, and before the 8th day of November, 1983, but only when such furniture, curtains, drapes, blinds and floor coverings have never previously been sold, leased or rented by a dealer to a customer at a retail sale anywhere;
77. major home appliances that are manufactured for private household use and that are,
- (a) refrigerators, freezers, dishwashers or kitchen ranges, including ovens and cooking tops sold separately for installation as a kitchen range, or

(b) washers or dryers for the laundering of clothes,

but only when such appliances have never previously been sold, leased or rented by a dealer to a customer at a retail sale anywhere and are,

(c) delivered to the purchaser thereof on or after the 11th day of May, 1983, and before the 9th day of August, 1983, and

(d) not appliances of a class or kind of appliance prescribed by the Minister to be excluded from the exemption conferred by this paragraph.

s. 11,
amended

5. Section 11 of the said Act is amended by striking out “\$25 and no more than \$1,000” in the eighth line and inserting in lieu thereof “\$50 and no more than \$2,000”.

s. 13 (2),
repealed

6. Subsection 13 (2) of the said Act is repealed.

s. 16a,
enacted

7. The said Act is amended by adding thereto the following section:

Penalty
assessment

16a.—(1) The Minister may assess any penalty payable by a vendor under subsection 30 (1) or (2) or any tax owing by a person dealing with a non-resident contractor who fails to comply with subsection 37 (4).

Notice of
assessment
under subs.
(1)

(2) Where the Minister has made an assessment under subsection (1), he shall serve a notice of assessment on the vendor or the person dealing with the non-resident contractor by pre-paid mail to his last known address or by personal service, requiring that the amount of the assessment made under subsection (1) be remitted to the Treasurer or otherwise accounted for.

Assessment
valid and
binding

(3) An assessment made under this section shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

Payment

(4) Every person assessed under this section shall, within thirty days of the service of the notice of assessment, remit to the Treasurer the amount assessed.

s. 17 (5),
amended

8. Subsection 17 (5) of the said Act is amended,

(a) by striking out “when assessed therefor, pay a penalty” in the seventh and eighth lines and inserting in lieu thereof “pay a penalty when assessed therefor”;

- (b) by striking out “\$25” in subclause 17 (5) (a) (i) and inserting in lieu thereof “\$50”;
- (c) by striking out “unpaid” in the first line of subclause 17 (5) (a) (ii); and
- (d) by striking out “\$500” in clause 17 (5) (b) and inserting in lieu thereof “\$2,000”.

9.—(1) Subsection 18 (2) of the said Act is amended by striking out “and, if the vendor or the purchaser is a partnership or a corporation, the notice of assessment may be served on a partner or the president, manager, secretary or other director, agent or representative thereof” in the seventh, eighth, ninth and tenth lines. s. 18 (2),
amended

(2) Section 18 of the said Act is amended by adding thereto the following subsections: s. 18,
amended

(3) Where, in the opinion of the Minister, a vendor or purchaser may attempt to avoid payment of a penalty that the Minister has assessed under subsection 17 (3), (3a), (4), (5) or (5a), the Minister may, notwithstanding subsection 17 (8), serve the notice of assessment on the vendor or purchaser, as the case may be, and the Minister may direct that all taxes as set out therein shall be paid forthwith. Idem

(4) Where, in the opinion of the Minister, a vendor or a person dealing with a non-resident contractor may attempt to avoid payment of a penalty that the Minister has assessed under subsection 16a (1), he may, notwithstanding subsection 16a (4), serve the notice of assessment on the vendor, or person dealing with a non-resident contractor, as the case may be, and direct that all taxes as set out therein shall be paid forthwith. Idem

(5) Where a person on whom a notice of assessment is to be served under this Act is a partnership or corporation, the notice of assessment may be served on a partner or the president, manager, secretary or other director, agent or representative thereof. Service on
partnership
or
corporation

10.—(1) Clause 30 (1) (a) of the said Act is amended by striking out “5 per cent” in the first line and inserting in lieu thereof “10 per cent”. s. 30 (1) (a),
amended

(2) Clause 30 (1) (b) of the said Act is amended by striking out “\$500” in the first line and inserting in lieu thereof “\$1,000”. s. 30 (1) (b),
amended

s. 30 (2),
amended

(3) Subsection 30 (2) of the said Act is amended by striking out “\$20 or more than \$100” in the fifth and sixth lines and inserting in lieu thereof “\$50 or more than \$200”.

s. 30 (3),
amended

(4) Subsection 30 (3) of the said Act is amended by striking out “\$25” in the twenty-third line and inserting in lieu thereof “\$100”.

s. 30 (4, 5),
repealed

(5) Subsections 30 (4) and (5) of the said Act are repealed.

s. 32 (1),
amended

11.—(1) Subsection 32 (1) of the said Act is amended by inserting after “(5)” in the seventh line “subsection 16a (2) or section 17”.

s. 32 (2),
amended

(2) Subsection 32 (2) of the said Act is amended by inserting after “(5)” in the second line “subsection 16a (2) or section 17”.

s. 34,
amended

12. Section 34 of the said Act is amended by adding thereto the following subsections:

Idem

(1a) Without limiting the generality of subsection (1), where the Minister has knowledge or suspects that a bank, credit union, trust company or other similar person, in this section referred to as “the institution”, is about to advance moneys to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by, a person liable to make a payment or remittance under this Act, who is indebted to the institution and who has given security to the institution in respect of the indebtedness, he may, by registered letter or by letter served personally, require the institution to pay to the Treasurer on account of the liability of the person liable to make a payment or remittance under this Act the moneys that would otherwise be so advanced or paid, and the requirement shall apply to all moneys that would otherwise be so advanced or paid in the ninety days following the receipt of the registered letter or letter served personally.

.

Idem

(3a) Every institution that fails to comply with a requirement under subsection (1a) is liable to pay to Her Majesty in right of Ontario an amount equal to the lesser of,

- (a) the aggregate of the moneys advanced or paid; and
- (b) the amount that it was required under subsection (1a) to pay to the Treasurer.

s. 35 (1),
amended

13. Subsection 35 (1) of the said Act is amended by inserting after “Act” in the second line “or upon default of the pay-

ment of tax by a person dealing with a non-resident contractor who fails to comply with subsection 37 (4)".

14.—(1) Subsection 39 (1) of the said Act is amended, s. 39 (1),
amended

(a) by striking out "or registered consumer" in the first line; and

(b) by striking out "\$25" in the fourth line and inserting in lieu thereof "\$50".

(2) Subsection 39 (2) of the said Act is amended by striking out "\$25" in the second line and inserting in lieu thereof "\$50". s. 39 (2),
amended

15.—(1) Subsection 41 (1) of the said Act is repealed and the following substituted therefor: s. 41 (1),
re-enacted

(1) Subject to subsection (2), any person who contravenes any provision of this Act or the regulations is guilty of an offence and, upon conviction, is liable, where no other penalty is provided for the offence, to a fine of not less than \$50 and not more than \$2,000. General
penalty

(2) Subsection 41 (2) of the said Act is amended by striking out "\$10 and not more than \$1,000" in the fourth and fifth lines and inserting in lieu thereof "\$50 and not more than \$2,000". s. 41 (2),
amended

16.—(1) Clause 45 (2) (b) of the said Act is amended by adding at the end thereof "or the regulations". s. 45 (2) (b),
amended

(2) Clause 45 (2) (g) of the said Act is repealed and the following substituted therefor: s. 45 (2) (g),
re-enacted

(g) prescribing the rate of interest payable under this Act or the regulations, or a formula for computing that rate, and the method of calculating that interest.

(3) Subsection 45 (2) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 38, section 4, is further amended by adding thereto the following clauses: s. 45 (2),
amended

(j) prescribing gold coins to which the exemption contained in paragraph 61a of subsection 5 (1) applies;

(k) prescribing circumstances or situations in which the purchaser of an admission to an entertainment, event, dance, performance or exhibition is excluded from the exemption from tax on the price of admission contained in subsection 7 (2).

s. 45 (3) (g),
re-enacted

(4) Clause 45 (3) (g) of the said Act is repealed and the following substituted therefor:

- (g) prescribing information to be contained in an application for a vendor's permit to be issued under section 3 and attaching additional conditions to the use of any such permit.

s. 45 (3) (i),
amended

(5) Clause 45 (3) (i) of the said Act is amended by striking out "after the 22nd day of April, 1980" in the second and third lines.

s. 45 (3) (j),
re-enacted

(6) Clause 45 (3) (j) of the said Act is repealed and the following substituted therefor:

- (j) providing for the rebate of the tax paid on the purchase of a motor vehicle that is, within thirty days of the date of sale, adapted or converted to permit it to operate in a manner described in clause (a) or (b) of paragraph 14 of subsection 5 (1), and prescribing the basis on which such rebate shall be calculated and the conditions under which it shall be made.

Commence-
ment

17.—(1) This Act, except sections 1, 2, 3, 4, 6, 7, 9, 11, 13 and 16, comes into force on the day it receives Royal Assent.

Idem

(2) Section 1, subsections 2 (2), (3) and (4), and sections 3, 4, 6, 7, 9, 11, 13 and 16 shall be deemed to have come into force on the 11th day of May, 1983.

Idem

(3) Subsection 2 (1) comes into force on the 24th day of May, 1983.

Short title

18. The short title of this Act is the *Retail Sales Tax Amendment Act, 1983*.

Bill 37

(Chapter 27
Statutes of Ontario, 1983)



An Act to amend the Retail Sales Tax Act

The Hon. G. L. Ashe
Minister of Revenue

<i>1st Reading</i>	May 12th, 1983
<i>2nd Reading</i>	May 24th, 1983
<i>3rd Reading</i>	May 26th, 1983
<i>Royal Assent</i>	May 26th, 1983

Bill 37

1983

An Act to amend the Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Paragraph 4 of section 1 of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 36, section 1, is further amended by striking out “and” at the end of clause (d), by adding “and” at the end of clause (e) and by adding thereto the following clause:

s. 1, par. 4,
amended

- (f) the tax payable by the purchaser under subsection 2 (1) of the *Tobacco Tax Act*.

R.S.O. 1980,
c. 502

(2) Paragraph 14 of the said section 1 is repealed.

s. 1, par. 14,
repealed

2.—(1) Subsection 2 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 36, section 2, is repealed and the following substituted therefor:

s. 2 (2),
re-enacted

(2) Every purchaser of liquor, beer or wine shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof computed at the rate of,

of liquor,
beer, wine

- (a) 10 per cent of the fair value thereof where the liquor, beer or wine is sold under the authority of a licence issued by the Liquor Licence Board under section 4 of the *Liquor Licence Act*; or

R.S.O. 1980,
c. 244

- (b) 12 per cent of the fair value thereof where the liquor, beer or wine is sold by or under the authority of the Liquor Control Board of Ontario under the *Liquor Control Act*.

R.S.O. 1980,
c. 243

(2) Subsection 2 (4) of the said Act is amended by striking out “\$3.50” in the fourth line and inserting in lieu thereof “\$4.00”.

s. 2 (4),
amended

s. 2 (5),
amended

(3) Subsection 2 (5) of the said Act is amended by adding at the end thereof "or at the time of the payment of a price of admission, or the promotional distribution of an admission".

s. 2 (9),
amended

(4) Subsection 2 (9) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 38, section 1, is further amended by inserting after "Act" in the seventh line "but only one application may be made with respect to any amount paid as tax under this Act".

s. 3,
amended

3. Section 3 of the said Act is amended by adding thereto the following subsection:

Change in
name or
nature of
business

(1a) Where a permit has been issued to a vendor under subsection (1) and the vendor changes the name or nature of his business he shall notify the Minister of the change forthwith and the Minister may issue a new permit, and, where the Minister issues a new permit, the vendor shall return his original permit to the Minister forthwith for cancellation.

s. 5 (1),
par. 2(c),
amended

4.—(1) Clause (c) of paragraph 2 of subsection 5 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 36, section 3, is amended by striking out "or where a rebate of the tax paid on those repairs or repair parts is provided under this Act or the regulations" in the fourth, fifth, sixth and seventh lines.

s. 5 (1),
par. 14,
re-enacted

(2) Paragraph 14 of the said subsection 5 (1), as re-enacted by the Statutes of Ontario, 1982, chapter 36, section 3, is repealed and the following substituted therefor:

R.S.O. 1980,
c. 198

14. vehicles that are required to be licensed under the *Highway Traffic Act* and the energy to operate which is either,

(a) exclusively electrical energy or energy derived from the internal combustion of ethanol, methanol, natural gas or manufactured gas, or

(b) energy described in clause (a), where the vehicle can also operate exclusively on energy derived from a fuel described under the *Fuel Tax Act, 1981* or the *Gasoline Tax Act*,

1981, c. 59;
R.S.O. 1980,
c. 186

but not any vehicle the energy to operate which is a mix of a form of energy described in clause (a) and energy derived from a fuel described under the *Fuel Tax Act, 1981* or the *Gasoline Tax Act*.

(3) Paragraph 14a of the said subsection 5 (1), as enacted by the Statutes of Ontario, 1981, chapter 38, section 2, is amended by adding at the end thereof “including the labour provided to install that conversion kit”.

s. 5 (1),
par. 14a,
amended

(4) Paragraph 20 of the said subsection 5 (1) is amended by striking out “as defined by the Minister”.

s. 5 (1),
par. 20,
amended

(5) Paragraph 27 of the said subsection 5 (1), as re-enacted by the Statutes of Ontario, 1982, chapter 36, section 3, is amended by adding at the end thereof “and repair parts for such vehicles”.

s. 5 (1),
par. 27,
amended

(6) Paragraph 36 of the said subsection 5 (1) is amended by adding at the end thereof “and repair parts for such appliances or equipment”.

s. 5 (1),
par. 36,
amended

(7) Paragraph 37 of the said subsection 5 (1) is amended by adding at the end thereof “and repair parts therefor”.

s. 5 (1),
par. 37,
amended

(8) Paragraph 38 of the said subsection 5 (1), as re-enacted by the Statutes of Ontario, 1982, chapter 36, section 3, is amended by adding at the end thereof “and accessories specifically designed for such equipment and repair parts for such equipment”.

s. 5 (1),
par. 38,
amended

(9) Paragraph 39 of the said subsection 5 (1) is amended by adding at the end thereof “and accessories specifically designed for hearing aids and repair parts for hearing aids”.

s. 5 (1),
par. 39,
amended

(10) Paragraph 40 of the said subsection 5 (1) is amended by adding at the end thereof “and repair parts therefor”.

s. 5 (1),
par. 40,
amended

(11) Paragraph 41 of the said subsection 5 (1) is amended by adding at the end thereof “and repair parts for such appliances”.

s. 5 (1),
par. 41,
amended

(12) Paragraph 43 of the said subsection 5 (1) is amended,

s. 5 (1),
par. 43,
amended

(a) by striking out “dies, jigs, product-holding fixtures, moulds and patterns for any of them, tools attached to production machinery, and” in the first, second and third lines; and

(b) by striking out “all” in the third line and inserting in lieu thereof “both”.

(13) Paragraph 44 of the said subsection 5 (1) is repealed.

s. 5 (1),
par. 44,
repealed

s. 5 (1),
par. 45,
re-enacted

(14) Paragraph 45 of the said subsection 5 (1), as amended by the Statutes of Ontario, 1982, chapter 36, section 3, is repealed and the following substituted therefor:

45. machinery, equipment or processing materials purchased for the use of a manufacturer, or for the use of a producer, to be used directly in the manufacture or production of tangible personal property or directly in, and exclusively for, the research or development by such manufacturer or producer of either,

(a) goods for his own manufacture or production or for the manufacture or production of others, or

(b) manufacturing or production processes for his use or the use of others,

R.S.C. 1970,
c. E-13

if such machinery, equipment or processing materials are described in Part XIII of Schedule III to the *Excise Tax Act* (Canada), but the exemption conferred by this paragraph does not apply to any type or class of machinery or equipment prescribed by the Minister to be excluded from this paragraph, or to any machinery or equipment used in any manner, process, industry, enterprise or by any person prescribed by the Minister as not entitled to the exemption conferred by this paragraph.

s. 5 (1),
par. 46,
amended

(15) Paragraph 46 of the said subsection 5 (1) is amended by striking out "or use" in the fourth line.

s. 5 (1),
amended

(16) The said subsection 5 (1), as amended by the Statutes of Ontario, 1981, chapter 38, section 2 and 1982, chapter 36, section 3, is further amended by adding thereto the following paragraph:

51. publications, as defined by the Minister, purchased by a school, school board or university or by a public library administered under the *Public Libraries Act*.

R.S.O. 1980,
c. 414

s. 5 (1),
par. 59,
amended

(17) Paragraph 59 of the said subsection 5 (1) is amended by striking out "as defined by the Minister" in the first line.

s. 5 (1),
amended

(18) The said subsection 5 (1), as amended by the Statutes of Ontario, 1981, chapter 38, section 2 and 1982, chapter 36, section 3, is further amended by adding thereto the following paragraph:

61a. Maple Leaf Gold Coins struck by the Royal Canadian Mint and such other gold coins as are prescribed by regulation.

(19) Paragraph 64 of the said subsection 5 (1) is repealed.

s. 5 (1),
par. 64,
repealed

(20) Paragraph 70 of the said subsection 5 (1) is repealed and the following substituted therefor:

s. 5 (1),
par. 70,
re-enacted

70. highway truck tractors having a gross vehicle mass rating, as defined by the Minister, of 11,778 kilograms or more, trucks designed for the carriage of goods or freight having a gross vehicle mass rating of 11,778 kilograms or more and truck trailers, tractor trailers and semi-trailers designed for the carriage of goods or freight having a gross vehicle mass rating of 11,778 kilograms or more, but the exemption conferred by this paragraph does not apply to trucks, truck tractors, truck trailers, tractor trailers or semi-trailers prescribed by the Minister to be excluded from this paragraph or used in any manner, process, industry, enterprise or by any person or class of persons prescribed by the Minister as not entitled to the exemption conferred by this paragraph.

(21) The said subsection 5 (1), as amended by the Statutes of Ontario, 1981, chapter 38, section 2 and 1982, chapter 36, section 3, is further amended by adding thereto the following paragraphs:

s. 5 (1),
amended

76. furniture, as defined by the Minister, including curtains, drapes and blinds, as defined by the Minister, and floor coverings, as defined by the Minister, that are purchased before the 9th day of August, 1983 for private residential use, if delivery thereof is taken by the purchaser on or after the 11th day of May, 1983, and before the 8th day of November, 1983, but only when such furniture, curtains, drapes, blinds and floor coverings have never previously been sold, leased or rented by a dealer to a customer at a retail sale anywhere;

77. major home appliances that are manufactured for private household use and that are,

(a) refrigerators, freezers, dishwashers or kitchen ranges, including ovens and cooking tops sold separately for installation as a kitchen range, or

(b) washers or dryers for the laundering of clothes,

but only when such appliances have never previously been sold, leased or rented by a dealer to a customer at a retail sale anywhere and are,

(c) delivered to the purchaser thereof on or after the 11th day of May, 1983, and before the 9th day of August, 1983, and

(d) not appliances of a class or kind of appliance prescribed by the Minister to be excluded from the exemption conferred by this paragraph.

s. 11,
amended

5. Section 11 of the said Act is amended by striking out “\$25 and no more than \$1,000” in the eighth line and inserting in lieu thereof “\$50 and no more than \$2,000”.

s. 13 (2),
repealed

6. Subsection 13 (2) of the said Act is repealed.

s. 16a,
enacted

7. The said Act is amended by adding thereto the following section:

Penalty
assessment

16a.—(1) The Minister may assess any penalty payable by a vendor under subsection 30 (1) or (2) or any tax owing by a person dealing with a non-resident contractor who fails to comply with subsection 37 (4).

Notice of
assessment
under subs.
(1)

(2) Where the Minister has made an assessment under subsection (1), he shall serve a notice of assessment on the vendor or the person dealing with the non-resident contractor by pre-paid mail to his last known address or by personal service, requiring that the amount of the assessment made under subsection (1) be remitted to the Treasurer or otherwise accounted for.

Assessment
valid and
binding

(3) An assessment made under this section shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto.

Payment

(4) Every person assessed under this section shall, within thirty days of the service of the notice of assessment, remit to the Treasurer the amount assessed.

s. 17 (5),
amended

8. Subsection 17 (5) of the said Act is amended,

(a) by striking out “when assessed therefor, pay a penalty” in the seventh and eighth lines and inserting in lieu thereof “pay a penalty when assessed therefor”;

- (b) by striking out “\$25” in subclause 17 (5) (a) (i) and inserting in lieu thereof “\$50”;
- (c) by striking out “unpaid” in the first line of subclause 17 (5) (a) (ii); and
- (d) by striking out “\$500” in clause 17 (5) (b) and inserting in lieu thereof “\$2,000”.

9.—(1) Subsection 18 (2) of the said Act is amended by striking out “and, if the vendor or the purchaser is a partnership or a corporation, the notice of assessment may be served on a partner or the president, manager, secretary or other director, agent or representative thereof” in the seventh, eighth, ninth and tenth lines. s. 18 (2),
amended

(2) Section 18 of the said Act is amended by adding thereto the following subsections: s. 18,
amended

(3) Where, in the opinion of the Minister, a vendor or purchaser may attempt to avoid payment of a penalty that the Minister has assessed under subsection 17 (3), (3a), (4), (5) or (5a), the Minister may, notwithstanding subsection 17 (8), serve the notice of assessment on the vendor or purchaser, as the case may be, and the Minister may direct that all taxes as set out therein shall be paid forthwith. Idem

(4) Where, in the opinion of the Minister, a vendor or a person dealing with a non-resident contractor may attempt to avoid payment of a penalty that the Minister has assessed under subsection 16a (1), he may, notwithstanding subsection 16a (4), serve the notice of assessment on the vendor, or person dealing with a non-resident contractor, as the case may be, and direct that all taxes as set out therein shall be paid forthwith. Idem

(5) Where a person on whom a notice of assessment is to be served under this Act is a partnership or corporation, the notice of assessment may be served on a partner or the president, manager, secretary or other director, agent or representative thereof. Service on
partnership
or
corporation

10.—(1) Clause 30 (1) (a) of the said Act is amended by striking out “5 per cent” in the first line and inserting in lieu thereof “10 per cent”. s. 30 (1) (a),
amended

(2) Clause 30 (1) (b) of the said Act is amended by striking out “\$500” in the first line and inserting in lieu thereof “\$1,000”. s. 30 (1) (b),
amended

s. 30 (2),
amended

(3) Subsection 30 (2) of the said Act is amended by striking out “\$20 or more than \$100” in the fifth and sixth lines and inserting in lieu thereof “\$50 or more than \$200”.

s. 30 (3),
amended

(4) Subsection 30 (3) of the said Act is amended by striking out “\$25” in the twenty-third line and inserting in lieu thereof “\$100”.

s. 30 (4, 5),
repealed

(5) Subsections 30 (4) and (5) of the said Act are repealed.

s. 32 (1),
amended

11.—(1) Subsection 32 (1) of the said Act is amended by inserting after “(5)” in the seventh line “subsection 16a (2) or section 17”.

s. 32 (2),
amended

(2) Subsection 32 (2) of the said Act is amended by inserting after “(5)” in the second line “subsection 16a (2) or section 17”.

s. 34,
amended

12. Section 34 of the said Act is amended by adding thereto the following subsections:

Idem

(1a) Without limiting the generality of subsection (1), where the Minister has knowledge or suspects that a bank, credit union, trust company or other similar person, in this section referred to as “the institution”, is about to advance moneys to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by, a person liable to make a payment or remittance under this Act, who is indebted to the institution and who has given security to the institution in respect of the indebtedness, he may, by registered letter or by letter served personally, require the institution to pay to the Treasurer on account of the liability of the person liable to make a payment or remittance under this Act the moneys that would otherwise be so advanced or paid, and the requirement shall apply to all moneys that would otherwise be so advanced or paid in the ninety days following the receipt of the registered letter or letter served personally.

.

Idem

(3a) Every institution that fails to comply with a requirement under subsection (1a) is liable to pay to Her Majesty in right of Ontario an amount equal to the lesser of,

- (a) the aggregate of the moneys advanced or paid; and
- (b) the amount that it was required under subsection (1a) to pay to the Treasurer.

s. 35 (1),
amended

13. Subsection 35 (1) of the said Act is amended by inserting after “Act” in the second line “or upon default of the pay-

ment of tax by a person dealing with a non-resident contractor who fails to comply with subsection 37 (4)".

14.—(1) Subsection 39 (1) of the said Act is amended, s. 39 (1),
amended

- (a) by striking out "or registered consumer" in the first line; and
- (b) by striking out "\$25" in the fourth line and inserting in lieu thereof "\$50".

(2) Subsection 39 (2) of the said Act is amended by striking out "\$25" in the second line and inserting in lieu thereof "\$50". s. 39 (2),
amended

15.—(1) Subsection 41 (1) of the said Act is repealed and the following substituted therefor: s. 41 (1),
re-enacted

(1) Subject to subsection (2), any person who contravenes any provision of this Act or the regulations is guilty of an offence and, upon conviction, is liable, where no other penalty is provided for the offence, to a fine of not less than \$50 and not more than \$2,000. General
penalty

(2) Subsection 41 (2) of the said Act is amended by striking out "\$10 and not more than \$1,000" in the fourth and fifth lines and inserting in lieu thereof "\$50 and not more than \$2,000". s. 41 (2),
amended

16.—(1) Clause 45 (2) (b) of the said Act is amended by adding at the end thereof "or the regulations". s. 45 (2) (b),
amended

(2) Clause 45 (2) (g) of the said Act is repealed and the following substituted therefor: s. 45 (2) (g),
re-enacted

- (g) prescribing the rate of interest payable under this Act or the regulations, or a formula for computing that rate, and the method of calculating that interest.

(3) Subsection 45 (2) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 38, section 4, is further amended by adding thereto the following clauses: s. 45 (2),
amended

- (j) prescribing gold coins to which the exemption contained in paragraph 61a of subsection 5 (1) applies;
- (k) prescribing circumstances or situations in which the purchaser of an admission to an entertainment, event, dance, performance or exhibition is excluded from the exemption from tax on the price of admission contained in subsection 7 (2).

s. 45 (3) (g),
re-enacted

(4) Clause 45 (3) (g) of the said Act is repealed and the following substituted therefor:

- (g) prescribing information to be contained in an application for a vendor's permit to be issued under section 3 and attaching additional conditions to the use of any such permit.

s. 45 (3) (i),
amended

(5) Clause 45 (3) (i) of the said Act is amended by striking out "after the 22nd day of April, 1980" in the second and third lines.

s. 45 (3) (j),
re-enacted

(6) Clause 45 (3) (j) of the said Act is repealed and the following substituted therefor:

- (j) providing for the rebate of the tax paid on the purchase of a motor vehicle that is, within thirty days of the date of sale, adapted or converted to permit it to operate in a manner described in clause (a) or (b) of paragraph 14 of subsection 5 (1), and prescribing the basis on which such rebate shall be calculated and the conditions under which it shall be made.

Commence-
ment

17.—(1) This Act, except sections 1, 2, 3, 4, 6, 7, 9, 11, 13 and 16, comes into force on the day it receives Royal Assent.

Idem

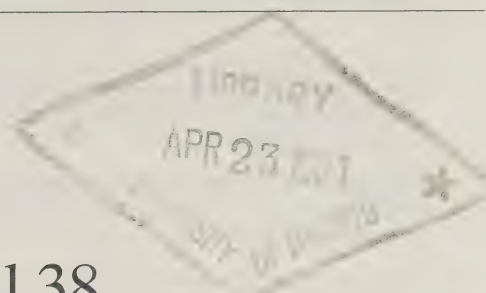
(2) Section 1, subsections 2 (2), (3) and (4), and sections 3, 4, 6, 7, 9, 11, 13 and 16 shall be deemed to have come into force on the 11th day of May, 1983.

Idem

(3) Subsection 2 (1) comes into force on the 24th day of May, 1983.

Short title

18. The short title of this Act is the *Retail Sales Tax Amendment Act, 1983*.



Bill 38

An Act to amend the Corporations Tax Act

The Hon. G.L. Ashe
Minister of Revenue

1st Reading May 12th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. Subsection (1) enacts a new clause 1 (1) (aa) to provide that certain definitions in the *Income Tax Act* (Canada), not otherwise applicable, will apply for the purposes of this Act.

Subsection (2) enacts a new subclause 1 (1) (b) (ix) of the Act to provide that the approval of the Minister of National Revenue to a change in the fiscal period of a corporation will be sufficient for the purposes of this Act and a separate approval of the Minister of Revenue will no longer be required.

Subsection (3) re-enacts subclause 1 (2) (d) (iv) to include therein references to sections 12 and 69 of the *Income Tax Act* (Canada), to make it clear that the references therein to other provisions will be applicable for the purposes of this Act.

Subclause 1 (2) (d) (iv) now reads as follows:

(iv) where subclause (i) applies, the section (except sections 20, 56, 60, paragraph 95 (1) (f) and sections 138 and 248 of that Act) shall be read as if the reference to the other provision were deleted.

SECTION 2. Subsections (1) and (2) amend subsections 12 (6) and (6a) of the Act and are complementary to the amendment made by section 11 of the Bill.

Subsection (3) amends subsection 12 (10) of the Act to provide that where a Crown corporation is prescribed to be taxable, this will apply to any corporation controlled by such corporation. This amendment parallels a similar amendment to the *Income Tax Act* (Canada).

SECTION 3. Subsection (1) enacts subsections 13 (1a) and (1b) of the Act to clarify the application of the *Income Tax Act* (Canada) with respect to capital gains reserves (1a) and foreign resource property (1b). Subsection 13 (1a) will ensure that the present policy with respect to capital gains reserves will continue notwithstanding amendments to the *Income Tax Act* (Canada). Subsection 13 (1b) will ensure that foreign resource property will continue to be treated as capital property notwithstanding the different treatment under the *Income Tax Act* (Canada).

Subsection (2) re-enacts subsection 13 (3) to clarify the application of paragraph 44 (7) (a) of the *Income Tax Act* (Canada) for the purposes of this Act.

Subsection 13 (3) now reads as follows:

(3) In the application of paragraph 40 (2) (a) of the Income Tax Act (Canada) for the purposes of this Act, subparagraph (i) thereof shall be read as though the words "was not resident" were deleted and the words "ceased to have a permanent establishment" were inserted in lieu thereof.

SECTION 4. This section enacts clause 14 (3) (c) of the Act with respect to resource property disposition to adopt the Federal policy in this regard.

SECTION 5. Subsection (1) re-enacts subsection 16 (1) and enacts new subsections 16 (1a) and (1b) in order to provide for the continuation of Ontario's policy allowing resource property reserves, notwithstanding recent amendments to the *Income Tax Act* (Canada) which discontinued the corresponding provisions in that Act.

Subsection 2. This amendment is complementary to the amendment made by subsection (1) of this section.

SECTION 6. This section enacts a new subsection 17 (3a) with respect to the allocation of depletion allowance to make it clear that where there is an agreement between a lessor and a lessee with respect to the sharing of the Federal depletion allowance, the same proportions will apply for the purposes of this Act.

SECTION 7. Subsection (1) re-enacts subsection 18 (7) of the Act to adopt recent Federal amendments with respect to resource related expenses where control of a corporation changes or where a corporation ceases to be tax exempt. The undeducted resource related expenses can now be claimed, but only against the resource income from assets on hand before the control change or loss of tax exempt status took place.

Subsection 18 (7) now reads as follows:

(7) Subsection 66 (11) of the Income Tax Act (Canada), except paragraph (e) thereof, is applicable for the purposes of this Act.

Subsection (2) re-enacts clause 18 (14) (h) which defines “outlay” or “expense” in order to adopt the expanded Federal definition of these terms.

Clause 18 (14) (h) now reads as follows:

(h) “outlay” or “expense” have the meaning given to those expressions by paragraph 66 (15) (g.2) of the Income Tax Act (Canada).

SECTION 8. This section re-enacts clause 22 (b) to adopt recent amendments to the *Income Tax Act* (Canada) with respect to the Incremental Oil Revenue Tax in that income subject to that tax will not be subject to income tax.

Clause 22 (b) now reads as follows:

22. There shall not be included in computing the income of a corporation for a taxation year,

(b) an amount determined in accordance with the rules provided in paragraphs 81 (l) (b), (c), (l) and (m) of the Income Tax Act (Canada).

SECTION 9. This section re-enacts subsection 25 (3) with respect to partnership income in order to clarify the application of the Federal provisions with respect to the taxation of resource income of partnerships.

Subsection 25 (3) now reads as follows:

(3) For the purposes of this Act, paragraph 96 (1) (d) of the Income Tax Act (Canada) shall apply as though the paragraph read as follows:

(d) each income or loss of the partnership for a taxation year were computed as if no deduction were permitted by subsection 17 (1), section 18 or the provisions of The Corporations Tax Application Rules, 1972 relating to exploration and development expenses.

SECTION 10. This section re-enacts subsection 27 (2) of the Act to adopt Federal amendments providing for filing of prescribed receipts, on election, where a corporation makes a gift of a tangible capital asset to a registered Canadian charity or to the Crown.

Subsection 27 (2) now reads as follows:

(2) In the application of paragraphs 110 (1) (a), (b) and (b.1) of the Income Tax Act (Canada) for the purposes of this Act, the reference therein to “receipts” shall be deemed to mean receipts or photostatic reproductions thereof.

SECTION 11. This section amends section 30 of the Act to increase the rate of tax on income under the Act to 15 per cent. The existing rate is 14 per cent. This new rate will come into force on the 11th day of May, 1983 and will be prorated for taxation years that commence before that date and end on or after that date.

SECTION 12. This section amends section 31 of the Act to increase the rate used for the allocation of the tax on income earned outside Ontario. This amendment is complementary to the amendment made by section 11 of the Bill.

SECTION 13. This section amends clause 32 (1) (e) of the Act to increase the amount of foreign tax credit allowed. This adjustment to the foreign tax credit is required as a result of the increase in the tax rate provided in the amendment made by section 11 of the Bill.

SECTION 14. Subsection (1) amends clause 33 (1) (a) of the Act to increase the deduction to 5 per cent (now 4 per cent) so that the effective rate on small business income will remain at 10 per cent. This amendment is complementary to the amendment made by section 11 of the Bill.

Subsection (2) amends clause 33 (1) (b) of the Act to increase the deduction to 15 per cent so that there will continue to be zero per cent tax payable on eligible income for tax exempt years of small business corporations. This amendment is complementary to the amendment made by section 11 of the Bill.

Subsection (3) re-enacts subsection 33 (2a) of the Act to extend for a further year the provisions with respect to tax exempt years of small business corporations. Tax exempt years will now be any taxation year ending after the 13th day of May, 1982 and before the 14th day of May, 1985, but there may not be more than three tax exempt years for any corporation.

Subsection 33 (2a) now reads as follows:

(2a) For the purpose of clause (1) (b), a "tax exempt year" of a corporation is a taxation year ending after the 13th day of May, 1982 and before the 14th day of May, 1984, but in no case shall a corporation have more than two tax exempt years.

Subsection (4) amends subsection 33 (2b) to provide that "property" includes a business carried on by the vendor so that the provisions of that subsection restricting the availability of a tax exempt year on a transfer of property in certain circumstances will apply to the transfer of businesses.

SECTION 15. Subsections (1) and (2) amend subsections 40 (2) and (4) of the Act, relating to the taxation of mutual fund corporations, in order to reflect the increase in the tax rate made by section 11 of the Bill.

Subsection (3) re-enacts subsections 40 (5) and (6) with respect to the apportionment of the capital gains refund for investment and mutual fund corporations. This amendment will clarify that where such corporations partly operate outside Ontario in any year, only the taxes paid to Ontario in respect of capital gains will be refunded by Ontario when a capital gains dividend is paid. This result is accomplished by clarifying the application of the corresponding Federal provisions. In addition, clause 40 (5) (a) is amended to reflect the increase in the tax rate made by section 11 of the Bill.

Subsections 40 (5) and (6) now read as follows:

(5) In the application of paragraph 131 (6) (d) of the said Act for the purposes of this Act, subparagraph (i) thereof shall be read without reference to clause (C) thereof, and the percentage referred to in clauses (A) and (B) of the said subparagraph shall be read as "14 per cent".

(6) Where a corporation had a permanent establishment in a jurisdiction outside Ontario during a taxation year in respect of which this section applies, the capital gains refund otherwise determined hereunder shall be reduced by that proportion thereof that the taxable income of the corporation that is deemed to have been earned in jurisdictions other than Ontario for the taxation year for the purposes of section 31 bears to its total taxable income or, where its taxable income is nil, the capital gains refund otherwise determined hereunder shall be reduced by that proportion thereof that the corporation's taxable paid-up capital that is deemed to have been used in jurisdictions outside Ontario for that taxation year for the purposes of section 59 bears to its total taxable paid-up capital.

SECTION 16. This section re-enacts subsection 49 (4) to adopt recent amendments to the *Income Tax Act* (Canada) which provide rules regarding the taxation of a corporation which becomes taxable after being tax exempt.

Subsection 49 (4) now reads as follows:

(4) The rules provided in subsections 149 (2), (3), (4), (6), (8), (9) and (10) of the Income Tax Act (Canada) are applicable for the purposes of this section.

SECTION 17. Subsection (1) re-enacts subclause 53 (1) (c) (iii) to add a reference to the new subsection 16 (1a) enacted by section 5 of this Bill.

Subsection (2) amends clause 53 (1) (d) with respect to the calculation of paid-up capital, to require the inclusion of all sums advanced or loaned to a corporation by any government.

Clause 53 (1) (d) now reads as follows:

- (d) all sums or credits advanced or loaned to the corporation,*
- (i) in the case of a corporation incorporated with share capital, by its shareholders, and*
- (ii) in the case of a corporation incorporated without share capital, by its members,*
- directly or indirectly or by any person related to any of its shareholders or members,*
as the case may be, or by any other corporation; and

SECTION 18. Subsection (1) amends clause 54 (1) (c), with respect to the investment allowance which is deductible from paid-up capital. In the first place, an amendment is made to allow the inclusion in the cost of investments of advances and loans made to any government. This amendment is complementary to the amendment made by subsection 17 (2) of the Bill. In the second place, subclause 54 (1) (c) (iv) is re-enacted to clarify that the existing provision with respect to the eligibility of loans and advances to banks and loan and trust corporations is also applicable to loans and advances to foreign banks and foreign loan and trust corporations. Such loans and advances do not qualify as eligible investments unless issued for a term of 120 days or more and are held for that time. Finally, clause 54 (1) (c) is amended by the addition of subclause (vi) to deny as an eligible investment for investment allowance purposes loans and advances made to tax exempt corporations.

Clause 54 (1) (c) now reads as follows:

54.—(1) For the purpose of computing the taxable paid-up capital of a corporation for a taxation year, there may be deducted from its paid-up capital as at the close of the taxation year such of the following amounts as are applicable,

- (c) the amount that equals that proportion of the paid-up capital remaining after the deduction of the amounts provided by clauses (a), (b) and (d) which the cost of the investments made by the corporation in the shares and bonds of other corporations, in loans and advances to other corporations and in the bonds, debentures and other securities of any government, municipal or school corporation bears to the total of the assets of the corporation remaining after the deductions of the amounts provided by clauses (a), (b) and (d), but,*
- (i) the deduction under this clause shall in no case exceed the cost of the investments in respect of which the deduction is claimed,*
- (ii) amounts of cash on deposit with any corporation doing the business of a savings bank are deemed not to be loans and advances to other corporations,*

- (iii) *amounts due by a corporation with its head office outside Canada to a related corporation that is taxable under this Part are deemed not to be loans and advances to other corporations unless such amounts have been outstanding for 120 days or more prior to the end of the taxation year of the related corporation,*
- (iv) *loans and advances to any corporation doing the business of a bank or to any corporation registered under the Loan and Trust Corporations Act are deemed not to be loans and advances to other corporations unless they are issued for a term of 120 days or more and have been held by the corporation for at least 120 days, and*
- (v) *bankers' acceptances issued for a term less than 120 days are deemed not to be loans and advances to other corporations.*

Subsection (2) enacts subsection 54 (2c) to require the inclusion, in "any other surplus" and therefore in paid-up capital, of accrued salaries, bonuses, expenses, and dividends which have been outstanding for twelve months or longer.

Subsection (3) re-enacts clause 54 (3) (b) and subsection (4) amends clause 54 (3) (c) to require any write down in the value of an asset that is deducted in computing income for book purposes to be added to paid-up capital to the extent that it has not been deducted for income tax purposes.

Subsection (5) re-enacts subclause 54 (3) (c) (iii) to add a reference to new subsection 16 (1a), enacted by section 5 of the Bill.

Clauses 54 (3) (b) and (c) now read as follows:

(b) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is not deductible under Part II,

and excludes any amount,

(c) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is deductible under the provisions of Part II except,

(i) paragraph 20 (1) (n) of the Income Tax Act (Canada) as that paragraph applies by virtue of subsections 12 (1) and (8) of this Act,

(ii) subparagraph 40 (1) (a) (iii) of the Income Tax Act (Canada) as that subparagraph applies by virtue of subsection 13 (1) of this Act, and

(iii) subsection 16 (1).

SECTION 19. This section amends section 61 of the Act to provide a flat paid-up capital tax rate of \$100 for corporations with a taxable paid-up capital exceeding \$1,000,000 but not exceeding \$2,000,000 for taxation years in which such corporations have no taxable income or have a loss, as defined in the new provisions. This section is applicable to any two taxation years of a corporation ending after the 11th day of May, 1983 and before the 12th day of May, 1985.

SECTION 20. This section re-enacts subsection 70 (8) of the Act to clarify the provisions with respect to the payment of tax instalments for corporations whose taxation year does not end on the last day of a month and to make it clear that where the taxation year of a corporation is more than 350 days, twelve instalments are required and the last instalment is required on or before the last day of the taxation year.

Subsection 70 (8) now reads as follows:

(8) For the purpose of subsection (2), where the taxation year of a corporation does not end on the last day of a calendar month, any reference in the said subsection (2) to the last day of a month shall be deemed, in respect of that corporation, to be a reference to the day of that month corresponding to the day on which the previous taxation year ended, except that where the previous taxation year ends on the 29th, 30th or 31st day of a month, the said reference to the last day of a month shall, with respect to the month of February, be deemed to be a reference to the last day of that month.

SECTION 21.—Subsection 1. Subsection (1) enacts a new subsection 72 (5a) to clarify the calculation of interest on the deficiency in instalments following a re-assessment where the corporation has failed to provide the information required with its return.

Subsection 2. This amendment to subsection 72 (6) of the Act is complementary to the amendment made by section 22 of the Bill and continues the policy that no recalculation of debit interest on tax arrears will be made where an amended return is filed to carry back losses.

SECTION 22. This section amends subsection 73 (8) of the Act to allow losses to be carried back three years instead of one year. By virtue of the tie-in with section 111 of the *Income Tax Act* (Canada) this change will not be effective until the corresponding changes to the said section 111 come into force.

SECTION 23.—Subsection 1. Subsection (1) enacts a new subsection 75 (1b) to allow the Minister to make refunds of tax prior to making his assessment where there has been an overpayment of instalments and where a written application for such refund has been made by the corporation.

Subsection 2. The amendment to subsection 75 (7) of the Act is complementary to the amendment made by section 22 of the Bill and continues the policy that no recalculation of credit interest on overpayment of tax will be made where an amended return is filed to carry back losses.

SECTION 24. This section re-enacts clause 100 (1) (f) to allow the Lieutenant Governor in Council to prescribe a formula for computing rates of interest for the purposes of Part V of the Act.

Bill 38

1983

An Act to amend the Corporations Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 (1) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 37, section 1, is further amended by adding thereto the following clause: s. 1 (1),
amended

(aa) the interpretations contained in the following provisions of the *Income Tax Act* (Canada) are applicable for the purposes of this Act: R.S.C. 1952,
c. 148

(i) subsections 125 (6) and (9).

(2) Clause 1 (1) (b) of the said Act is amended by adding thereto the following subclause: s. 1 (1) (b),
amended

(ix) notwithstanding subclause (iii), in the application of the interpretation of “fiscal period” contained in subsection 248 (1) of the *Income Tax Act* (Canada), the reference therein to “Minister” shall be deemed for the purposes of this Act to be a reference to the Minister of National Revenue for Canada.

(3) Subclause 1 (2) (d) (iv) of the said Act is repealed and the following substituted therefor: s. 1 (2) (d)
(iv), re-
enacted

(iv) where subclause (i) applies, the section (except sections 12, 20, 56, 60 and 69, paragraph 95 (1) (f) and sections 138 and 248 of that Act) shall be read as if the reference to the other provision were deleted.

2.—(1) Subsection 12 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 19, section 1, is amended by striking out “5/14ths” in the ninth line and inserting in lieu thereof “5/15ths”. s. 12 (6),
amended

s. 12 (6a),
amended

(2) Subsection 12 (6a) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 1, is amended by striking out "5/14ths" in the sixth line and inserting in lieu thereof "5/15ths".

s. 12 (10),
amended

(3) Subsection 12 (10) of the said Act is amended by adding thereto the following paragraph:

Application
of par. 1 to
controlled
corporation

3. Where a corporation is prescribed pursuant to paragraph 1, paragraph 1 shall apply to any corporation controlled by such corporation.

s. 13,
amended

3.—(1) Section 13 of the said Act is amended by adding thereto the following subsections:

Idem
R.S.C. 1952,
c. 148

(1a) Clauses 40 (1) (a) (iii) (B) and 44 (1) (e) (iii) (B) of the *Income Tax Act* (Canada) are not applicable for the purposes of this Act.

Idem

(1b) In the application of subparagraph 39 (1) (a) (ii) of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to paragraphs 59 (2) (b) and (e) is not applicable.

s. 13 (3),
re-enacted

(2) Subsection 13 (3) of the said Act is repealed and the following substituted therefor:

Idem

(3) In the application of subparagraph 40 (2) (a) (i) and paragraph 44 (7) (a) of the *Income Tax Act* (Canada) for the purposes of this Act, the said provisions shall be read as though the words "was not resident" were deleted and the words "ceased to have a permanent establishment" were inserted in lieu thereof.

s. 14 (3),
amended

4. Subsection 14 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 4, is amended by adding thereto the following clause:

(c) paragraphs (3.3) (c), (d) and (e) of the said section shall be deemed to have come into force on the 12th day of December, 1979, and apply in respect of all taxation years ending after the 11th day of December, 1979.

s. 16 (1),
re-enacted;
s. 16 (1a),
(1b), enacted

5.—(1) Subsection 16 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 5, is repealed and the following substituted therefor:

(1) Where, by virtue of paragraph 59 (3.2) (c) of the *Income Tax Act* (Canada) as made applicable by section 14 of this Act, an amount has been included in computing a corporation's income for a taxation year (in this subsection referred to as the "initial year") and an amount has by virtue of the disposition of a property to which subsection 59 (1.1) or (3.1) of the said Act applies been included, by virtue of clause 66.2 (5) (b) (v) (A) of the said Act as made applicable by section 18a of this Act, in computing the cumulative Canadian development expense of the corporation at any time in the initial year and all or a portion of the amount so included in computing the corporation's cumulative Canadian development expense is not due until after the end of a taxation year, there may be deducted as a reserve in computing the income of the corporation for that taxation year in respect of the portion of the amount that is not due until after the end of that taxation year,

Reserves in respect of consideration for disposition of resource property not due until subsequent year
R.S.C. 1952, c. 148

(a) where the taxation year is the initial year, the lesser of,

- (i) the amount included in computing the corporation's income for the taxation year by virtue of paragraph 59 (3.2) (c) of the said Act as made applicable by section 14 of this Act, and
- (ii) the part of the portion of the amount in respect of a disposition of the property that is not due until a day that is after the end of the taxation year; or

(b) in any other case, the lesser of,

- (i) the amount deducted under this clause or clause (a) in respect of the property in computing the corporation's income for the immediately preceding taxation year, and
- (ii) the part of the portion of the amount in respect of the property that is not due until a day that is after the end of its taxation year,

and for greater certainty, no deduction may be made in respect of any amount or portion of any amount referred to in clause (a) or (b) by virtue of paragraph 20 (1) (n) of the said Act as made applicable by section 12 of this Act.

(1a) Where, by virtue of paragraph 59 (3.2) (c) of the *Income Tax Act* (Canada) as made applicable by section 14 of this Act, an amount has been included in computing a corporation's income for a taxation year (in this subsection referred to

Idem

as the "initial year") and an amount in respect of the disposition of a property to which subsection 59 (1.2) of the said Act applies has been included, by virtue of clause 66.4 (5) (b) (v) (A) of the said Act as made applicable by section 18a of this Act, in computing the cumulative Canadian oil and gas property expense of the corporation at any time in the initial year and all or a portion of the amount so included in computing the corporation's cumulative Canadian oil and gas property expense is not due until after the end of a taxation year, there may be deducted as a reserve in computing the income of the corporation for that taxation year in respect of the portion of the amount that is not due until after the end of that taxation year,

- (a) where the taxation year is the initial year, the least of,
 - (i) the amount, if any, by which the amount included in computing the corporation's income for the taxation year by virtue of paragraph 59 (3.2) (c) of the said Act as made applicable by section 14 of this Act exceeds the amount deducted under clause (1) (a) in computing its income for the year,
 - (ii) the amount determined under subsection 66.4 (1) of the said Act as made applicable by section 18a of this Act in respect of the corporation for the year, and
 - (iii) the part of the portion of the amount in respect of a disposition of the property that is not due until a day that is after the end of the year; or
- (b) in any other case, the lesser of,
 - (i) the amount deducted under this subsection in respect of the property in computing the corporation's income for the immediately preceding taxation year, and
 - (ii) the part of the portion of the amount in respect of the property that is not due until a day that is after the end of the taxation year,

and for greater certainty, paragraph 20 (1) (n) of the said Act as made applicable by section 12 of this Act does not apply with respect to any amount deductible under this subsection.

(1b) For the purposes of this Act, a reference in this Act or in the *Income Tax Act* (Canada) to section 64 of the *Income Tax Act* (Canada) shall be deemed to be a reference to subsections 16 (1) and (1a) of this Act.

Application
R.S.C. 1952,
c. 148

(2) Subsection 16 (2) of the said Act is amended by striking out "Subsection (1) does not apply" in the first line and inserting in lieu thereof "Subsections (1) and (1a) do not apply".

s. 16 (2),
amended

6. Section 17 of the said Act is amended by adding thereto the following subsection:

s. 17,
amended

(3a) For the purpose of subsection (3), where an agreement has been made pursuant to subsection 65 (3) of the *Income Tax Act* (Canada), the ratio of the apportionment of the allowance that has been determined thereunder shall be deemed to apply for the purposes of this Act.

Idem

7.—(1) Subsection 18 (7) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6, is repealed and the following substituted therefor:

s. 18 (7),
re-enacted

(7) Subsections 66 (11), (11.1), (11.2) and (11.3) of the *Income Tax Act* (Canada), except paragraph 66 (11) (e), are applicable for the purposes of this Act.

Control
change

(2) Clause 18 (14) (h) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6, is repealed and the following substituted therefor:

s. 18 (14) (h),
re-enacted

(h) "outlay" or "expense" have the meaning given to those expressions by paragraphs 66 (15) (g.2) and (g.3) of the *Income Tax Act* (Canada).

8. Clause 22 (b) of the said Act is repealed and the following substituted therefor:

s. 22 (b),
re-enacted

(b) an amount determined in accordance with the rules provided in paragraphs 81 (1) (b), (c), (l), (m), (r) and (s) of the *Income Tax Act* (Canada) and subsection 81 (1.1) of that Act.

other
amounts

9. Subsection 25 (3) of the said Act is repealed and the following substituted therefor:

s. 25 (3),
re-enacted

(3) In the application of paragraph 96 (1) (d) of the *Income Tax Act* (Canada), for the purposes of this Act, the references therein to,

Application
of R.S.C.
1952,
c. 148,
s. 96 (1) (d)

R.S.C. 1952,
c. 148

- (a) subsection 66 (12.1) and paragraphs 66 (12.2) (a), 66 (12.3) (a) and 66 (12.5) (a) of the *Income Tax Act* (Canada) shall be deemed to be references to those provisions as made applicable by subsections 18 (11) and (12) of this Act;
- (b) subsection 65 (1) of the *Income Tax Act* (Canada) shall be deemed to be a reference to subsection 17 (1) of this Act; and
- (c) sections 66, 66.1, 66.2 and 66.4 of the *Income Tax Act* (Canada) shall be deemed to be references to sections 18 and 18a of this Act.

s. 27 (2),
re-enacted

10. Subsection 27 (2) of the said Act is repealed and the following substituted therefor:

Receipts;
application of
R.S.C. 1952,
c. 148, s. 110

(2) In the application of paragraphs 110 (1) (a), (b) and (b.1) of the *Income Tax Act* (Canada) and subsection 110 (2.2) of that Act for the purposes of this Act, the reference therein to "receipts" shall be deemed to mean receipts or photostatic reproductions thereof.

s. 30,
amended

11. Section 30 of the said Act is amended by striking out "14 per cent" in the fourth line and inserting in lieu thereof "15 per cent".

s. 31,
amended

12. Section 31 of the said Act is amended by striking out "14 per cent" in the third line and inserting in lieu thereof "15 per cent".

s. 32 (1) (e),
amended

13. Clause 32 (1) (e) of the said Act is amended by striking out "14 per cent" in the first line and inserting in lieu thereof "15 per cent".

s. 33 (1) (a),
amended

14.—(1) Clause 33 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 19, section 2, is amended by striking out "4 per cent" in the first line and inserting in lieu thereof "5 per cent".

s. 33 (1) (b),
amended

(2) Clause 33 (1) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 19, section 2, is amended by striking out "14 per cent" in the first line and inserting in lieu thereof "15 per cent".

s. 33 (2a),
re-enacted

(3) Subsection 33 (2a) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 2, is repealed and the following substituted therefor:

(2a) For the purpose of clause (1) (b), a “tax exempt year” of a corporation is a taxation year ending after the 13th day of May, 1982 and before the 14th day of May, 1985, but in no case shall a corporation be entitled to have more than three tax exempt years.

Definition,
tax exempt
year

(4) Subsection 33 (2b) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 2, is amended by adding at the end thereof “and for greater certainty “property” includes a business carried on by the vendor”.

s. 33 (2b),
amended

15.—(1) Subsection 40 (2) of the said Act is amended by striking out “7 per cent” in the third line and inserting in lieu thereof “7.5 per cent”.

s. 40 (2),
amended

(2) Subsection 40 (4) of the said Act is amended by striking out “14 2/7 times” in the third and fourth lines and inserting in lieu thereof “13 1/3 times”.

s. 40 (4),
amended

(3) Subsections 40 (5) and (6) of the said Act are repealed and the following substituted therefor:

s. 40 (5,6),
re-enacted

(5) In the application of subparagraph 131 (6) (d) (i) of the said Act for the purposes of this Act,

Application
of
R.S.C. 1952,
c. 148,
s. 131 (6)
(d) (i)

(a) the percentage referred to in clauses (A) and (B) of the said subparagraph shall be read as “15 per cent”; and

(b) the reference in clause (C) of the said subparagraph to “this Part” shall be read as a reference to Part II of this Act, and the said subparagraph shall be read without reference to the words “where the taxation year ended after May 6, 1974”.

(6) Where a corporation had a permanent establishment in a jurisdiction outside Ontario during a taxation year in respect of which this section applies, the “taxable income” and “taxed capital gains” determined for the purpose of paragraph 131 (6) (d) of the *Income Tax Act* (Canada) as made applicable by subsection (5) shall be reduced by that proportion thereof that the taxable income of the corporation that is deemed to have been earned in jurisdictions other than Ontario for the taxation year for the purposes of section 31 is of its total taxable income.

Apportionment
of capital
gains refund

16. Subsection 49 (4) of the said Act is repealed and the following substituted therefor:

s. 49 (4),
re-enacted

Application
of rules
under R.S.C.
1952, c. 148

(4) The rules provided in subsections 149 (2), (3), (4), (6), (8), (9), (10) and (11) of the *Income Tax Act* (Canada) are applicable for the purposes of this section.

s. 53 (1) (c)
(iii),
re-enacted

17.—(1) Subclause 53 (1) (c) (iii) of the said Act is repealed and the following substituted therefor:

(iii) subsections 16 (1) and (1a).

s. 53 (1) (d),
amended

(2) Clause 53 (1) (d) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 10, is amended by inserting after “corporation” in the ninth line “and all sums advanced or loaned to the corporation by any government”.

s. 54 (1) (c),
amended

18.—(1) Clause 54 (1) (c) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 11, is further amended,

(a) by inserting after “corporations” in the sixth line “or to any government”;

(b) by repealing subclause (iv) and substituting the following therefor:

(iv) loans and advances to any corporation, whether or not incorporated in Canada, doing the business of a bank or to any corporation registered under the *Loan and Trust Corporations Act* or that would be required to be registered under that Act if it were carrying on business in Ontario are deemed not to be loans and advances to other corporations unless they are issued for a term of 120 days or more and have been held by the corporation for at least 120 days;

(c) by adding “and” at the end of subclause (v) and adding thereto the following subclause:

(vi) “shares and bonds of other corporations” and “loans and advances to other corporations” do not include the shares and bonds of or loans and advances to a corporation that is exempt from the tax imposed under this Part by virtue of subsection 63 (1).

R.S.O. 1980,
c. 249

s. 54,
amended

(2) Section 54 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 11 and 1982, chapter 19, section 4, is further amended by adding thereto the following subsection:

(2c) For the purpose of this Part, “any other surplus” ^{Idem} includes, in addition to any other amount included therein by virtue of this section, the following amounts,

- (a) the amount described in subsection 78 (1) of the *Income Tax Act* (Canada); ^{R.S.C. 1952, c. 148}
- (b) the amount described in subsection 78 (3) of the *Income Tax Act* (Canada) where the corporation and the person to whom the amount was owing were not dealing at arm’s length at the time that the outlay or expense was incurred; and
- (c) dividends declared,

where such amounts are unpaid at the end of any taxation year following the taxation year in which the outlay or expense was incurred or the dividend declared.

(3) Clause 54 (3) (b) of the said Act is repealed and the following substituted therefor: ^{s. 54 (3) (b), re-enacted}

- (b) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is not deductible, or if deductible has not been deducted in computing its income for the year or a previous year, under Part II,

.

(4) Clause 54 (3) (c) of the said Act is amended by inserting after “deductible” in the fourth line “and has been deducted in computing its income for the year or a previous year”. ^{s. 54 (3) (c), amended}

(5) Subclause 54 (3) (c) (iii) of the said Act is repealed and the following substituted therefor: ^{s. 54 (3) (c) (iii), re-enacted}

- (iii) subsections 16 (1) and (1a).

19.—(1) Subsection 61 (1) of the said Act is amended by adding “or” at the end of clause (b) and by adding thereto the following clause: ^{s. 61 (1), amended}

- (c) the lesser of,
 - (i) the tax that would otherwise be payable under this Part if subsection 58 (1) and subsection 59 (1) were applicable, and

(ii) \$100,

with respect to a loss year of the corporation, as defined in subsections (5) and (6), where its taxable paid-up capital exceeds \$1,000,000 but does not exceed \$2,000,000.

s. 61 (2),
amended

(2) Subsection 61 (2) of the said Act is amended by inserting after "corporation" in the third line "other than a corporation to which clause (1) (c) applies".

s. 61 (4) (a),
amended

(3) Clause 61 (4) (a) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 13, is amended by inserting after "\$1,000,000" in the fourth line "or \$2,000,000 with respect to a loss year of the corporation as defined in subsections (5) and (6)".

s. 61 (4) (b),
amended

(4) Clause 61 (4) (b) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 13, is amended by adding at the end thereof "or \$2,000,000 with respect to a loss year of the corporation as defined in subsections (5) and (6)".

s. 61,
amended

(5) Section 61 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 13, is further amended by adding thereto the following subsections:

Definition,
"loss year"

(5) For the purpose of clause (1) (c), a "loss year" of a corporation means a taxation year in which the corporation has no taxable income for the year or a loss for the year if it has no income for the year or has a loss for the year after making the deductions permitted by Part II other than the deductions under,

(a) clauses 12 (7) (a) and (d);

R.S.C. 1952,
c. 148

(b) paragraphs 20 (1) (b) and (gg) of the *Income Tax Act* (Canada) as made applicable by section 12;

(c) subsection 20 (16) of the *Income Tax Act* (Canada) as made applicable by section 12;

(d) section 17; and

(e) paragraphs 110 (1) (a), (b) and (b.1) of the *Income Tax Act* (Canada) and sections 111, 112 and 113 of that Act, as made applicable by section 27.

Interpre-
tation

(6) For the purpose of subsection (5), a "loss year" of a corporation is a taxation year ending after the 10th day of May,

1983, and before the 11th day of May, 1985, but in no case shall a corporation have more than two loss years.

20. Subsection 70 (8) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 5, is repealed and the following substituted therefor: s. 70 (8),
re-enacted

(8) For the purpose of subsection (2), where the previous taxation year of a corporation does not end on the last day of a calendar month, Interpre-
tation

(a) any reference to the last day of a month shall be deemed, in respect of that corporation, to be a reference to the day of that month corresponding to the day on which,

(i) the previous taxation year ended for purpose of clause (2) (a), and

(ii) the taxation year ended for purpose of clause (2) (b),

except that where either the previous taxation year or the taxation year ends on the 29th, 30th or 31st day of a month, the said reference to the last day of a month shall, with respect to the month of February, be deemed to be a reference to the last day of that month; and

(b) notwithstanding clause (a), twelve instalments are required where the taxation year of a corporation is more than 350 days and the last instalment shall be paid on or before the last day of the taxation year.

21.—(1) Section 72 of the said Act is amended by adding thereto the following subsection: s. 72,
amended

(5a) Subsection (5) does not apply where a corporation fails to submit the information required by subsection 67 (2) on the return required by subsection 67 (1) if the tax payable by virtue of the reassessment is greater than the tax previously assessed. Subs. (5)
not
applicable
in certain
case

(2) Subsection 72 (6) of the said Act is amended by striking out “the taxation year immediately following” in the fourth and fifth lines and inserting in lieu thereof “a taxation year following”. s. 72 (6),
amended

22. Subsection 73 (8) of the said Act is amended by striking out “within one year” in the second line and inserting in lieu thereof “within three years” and by striking out “the taxation s. 73 (8),
amended

year immediately following” in the seventh and eighth lines and inserting in lieu thereof “a taxation year following”.

s. 75,
amended

23.—(1) Section 75 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 19, section 6, is further amended by adding thereto the following subsection:

Idem

(1b) Where a corporation has paid instalments of tax in accordance with clause 70 (2) (a) in respect of a taxation year, the Minister may make a refund of such instalments prior to making his assessment under section 73 if application therefor has been made in writing by the corporation.

s. 75 (7),
amended

(2) Subsection 75 (7) of the said Act is amended by striking out “the taxation year immediately following” in the fourth and fifth lines and inserting in lieu thereof “a taxation year following”.

s. 100 (1) (f),
re-enacted

24. Clause 100 (1) (f) of the said Act is repealed and the following substituted therefor:

(f) prescribing rates of interest for the purposes of Part V or a formula for computing those rates and the method of calculating that interest.

Commence-
ment and
application

25.—(1) Subsection 1 (1) shall be deemed to have come into force on the 13th day of November, 1981 and applies to corporations in respect of all taxation years commencing after the 12th day of November, 1981.

Idem

(2) Subsection 1 (2) shall come into force on the 1st day of July, 1983 and applies in respect of changes in fiscal periods approved by the Minister of National Revenue after the 30th day of June, 1983.

Idem
R.S.C. 1952,
c. 148;
R.S.O. 1980,
c. 97

(3) The reference to section 12 of the *Income Tax Act* (Canada) contained in subclause 1 (2) (d) (iv) of the *Corporations Tax Act*, as re-enacted by subsection 1 (3) of this Act, shall be deemed to have come into force on the 8th day of December, 1977 and applies to corporations in respect of all taxation years ending after the 7th day of December, 1977.

Idem

(4) The reference to section 69 of the *Income Tax Act* (Canada) as contained in subclause 1 (2) (d) (iv) of the *Corporations Tax Act*, as re-enacted by subsection 1 (3) of this Act, shall be deemed to have come into force on the 1st day of February, 1982 and applies to purchases made after the 31st day of January, 1982.

(5) Subsections 2 (1) and (2), sections 11, 12 and 13, subsections 14 (1), 14 (2), 15 (1) and 15 (2), and clause 40 (5) (a) of the said Act, as enacted by subsection 15 (3) of this Act, shall be deemed to have come into force on the 11th day of May, 1983 and apply to corporations in respect of all taxation years ending after the 10th day of May, 1983, except that with respect to the taxation year ending after the 10th day of May, 1983 and that includes that day, the following rules apply: Idem

- (a) determine the amount of tax payable under Part II of the said Act as that Part stood on the 10th day of May, 1983 on the assumption that that Part as it so stood was applicable to that taxation year;
- (b) determine the proportion of the amount determined under clause (a) that the number of days of that taxation year prior to the 11th day of May, 1983 bears to the total number of days of that taxation year;
- (c) determine the amount of tax payable under Part II of the said Act, as amended by subsections 2 (1) and (2), sections 11, 12 and 13, subsections 14 (1), 14 (2), 15 (1) and 15 (2), and clause 40 (5) (a) of the said Act, as enacted by subsection 15 (3) of this Act, on the assumption that that Part as so amended was applicable for that taxation year;
- (d) determine the proportion of the amount determined under clause (c) that the number of days of that taxation year that follow the 10th day of May, 1983 bears to the total number of days of that taxation year;
- (e) determine the aggregate of the amounts determined under clauses (b) and (d) in respect of the corporation,

and the aggregate determined under clause (e) is the amount payable by the corporation under Part II of the said Act, as amended by subsections 2 (1) and (2), sections 11, 12 and 13, subsections 14 (1), 14 (2), 15 (1) and 15 (2), and clause 40 (5) (a) of the said Act, as enacted by subsection 15 (3) of this Act, for its taxation year that ends after the 10th day of May, 1983 and that includes that day.

(6) Subsections 2 (3) and 23 (1) and section 24 shall come into force on the day this Act receives Royal Assent. Idem

(7) Subsection 13 (1a) of the said Act, as enacted by subsection 3 (1) of this Act, and section 5 shall be deemed to have come into force on the 13th day of November, 1981 and apply to dis- Idem

positions of property occurring after the 12th day of November, 1981.

Idem

(8) Subsection 13 (1b) of the said Act, as enacted by subsection 3 (1) of this Act, shall be deemed to have come into force on the 8th day of December, 1977 and applies to corporations in respect of all taxation years ending after the 7th day of December, 1977.

Idem

(9) Subsection 3 (2) shall be deemed to have come into force on the 12th day of December, 1979 and applies to dispositions of property occurring after the 11th day of December, 1979.

Idem

(10) Section 4 shall be deemed to have come into force on the 12th day of December, 1979 and applies to corporations in respect of all taxation years ending after the 11th day of December, 1979.

Idem

(11) Section 6, subsection 17 (2), clauses 18 (1) (a) and (c), subsections 18 (2), (3) and (4), section 19 and subsection 21 (1) shall be deemed to have come into force on the 11th day of May, 1983 and apply to corporations in respect of all taxation years ending after the 10th day of May, 1983.

Idem

(12) Subsections 7 (1), 17 (1) and 18 (5) shall be deemed to have come into force on the 13th day of November, 1981 and apply to corporations in respect of all taxation years ending after the 12th day of November, 1981.

Idem

(13) Subsection 7 (2) shall be deemed to have come into force on the 20th day of May, 1981 and applies to outlays and expenses made or incurred after the 19th day of May, 1981.

Idem

(14) Section 8 shall be deemed to have come into force on the 1st day of January, 1982 and applies to corporations in respect of all taxation years ending after 1981.

Idem

(15) Section 9 shall be deemed to have come into force on the 20th day of May, 1981 and applies to corporations in respect of all taxation years ending after the 19th day of May, 1981.

Idem

(16) Section 10 shall be deemed to have come into force on the 1st day of January, 1980 and applies to gifts made after 1979.

Idem

(17) Subsections 14 (3) and (4) shall be deemed to have come into force on the 14th day of May, 1982 and applies to corporations in respect of all taxation years ending after the 13th day of May, 1982.

(18) Subsection 15 (3), except clause 40 (5) (a) as enacted by Idem
the said subsection, shall be deemed to have come into force on
the 1st day of January, 1972 and applies to corporations in
respect of all taxation years ending after 1971, except that for
the purpose of computing a corporation's "refundable capital
gains tax on hand" for the purposes of subsections 40 (5) and (6)
of the said Act, the percentage referred to in clauses (A) and (B)
of subparagraph 131 (6) (d) (i) of the *Income Tax Act* (Canada)
shall, with respect to a taxation year,

- (a) that ends before the 8th day of March, 1978, be read
as "12 per cent";
- (b) that ends after the 7th day of March, 1978, and
before the 11th day of April, 1979, be read as "13 per
cent", except that with respect to a taxation year that
ends after the 7th day of March, 1978, and that
includes that day, be read as "12 per cent plus that
proportion of 1 per cent that the number of days of
that taxation year after the 7th day of March, 1978,
bears to the total number of days of that taxation
year";
- (c) that ends after the 10th day of April, 1979, and before
the 11th day of May, 1983, be read as "14 per cent",
except that with respect to a taxation year that ends
after the 10th day of April, 1979, and that includes
that day, be read as "13 per cent plus that proportion
of 1 per cent that the number of days of that taxation
year after the 10th day of April, 1979, bears to the
total number of days of that taxation year"; and
- (d) that ends after the 10th day of May, 1983, and that
includes that day, be read as "14 per cent plus that
proportion of 1 per cent that the number of days of
that taxation year after the 10th day of May, 1983,
bears to the total number of days of that taxation
year".

(19) Section 16 shall be deemed to have come into force on the Idem
13th day of November, 1981 and applies to corporations that
become taxable after the 12th day of November, 1981.

(20) Clause 18 (1) (b) shall be deemed to have come into force Idem
on the 23rd day of April, 1980 and applies to corporations in
respect of all taxation years ending after the 22nd day of April,
1980.

Idem

(21) Section 20 shall be deemed to have come into force on the 1st day of January, 1981 and applies to corporations in respect of all taxation years ending after 1980.

Idem

(22) Subsection 21 (2), section 22 and subsection 23 (2) shall be deemed to have come into force on the 1st day of January, 1980 and apply to corporations in respect of all taxation years ending after 1979 with respect to losses for taxation years ending after 1982.

Short Title

26. The short title of this Act is the *Corporations Tax Amendment Act, 1983*.

Bill 38

*(Chapter 29
Statutes of Ontario, 1983)*

An Act to amend the Corporations Tax Act

The Hon. G.L. Ashe
Minister of Revenue

<i>1st Reading</i>	May 12th, 1983
<i>2nd Reading</i>	May 31st, 1983
<i>3rd Reading</i>	June 3rd, 1983
<i>Royal Assent</i>	June 6th, 1983

Bill 38

1983

An Act to amend the Corporations Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 (1) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 37, section 1, is further amended by adding thereto the following clause:

(aa) the interpretations contained in the following provisions of the *Income Tax Act* (Canada) are applicable for the purposes of this Act:

(i) subsections 125 (6) and (9).

(2) Clause 1 (1) (b) of the said Act is amended by adding thereto the following subclause:

(ix) notwithstanding subclause (iii), in the application of the interpretation of “fiscal period” contained in subsection 248 (1) of the *Income Tax Act* (Canada), the reference therein to “Minister” shall be deemed for the purposes of this Act to be a reference to the Minister of National Revenue for Canada.

(3) Subclause 1 (2) (d) (iv) of the said Act is repealed and the following substituted therefor:

(iv) where subclause (i) applies, the section (except sections 12, 20, 56, 60 and 69, paragraph 95 (1) (f) and sections 138 and 248 of that Act) shall be read as if the reference to the other provision were deleted.

2.—(1) Subsection 12 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 19, section 1, is amended by striking out “5/14ths” in the ninth line and inserting in lieu thereof “5/15ths”.

s. 12 (6a),
amended

(2) Subsection 12 (6a) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 1, is amended by striking out “5/14ths” in the sixth line and inserting in lieu thereof “5/15ths”.

s. 12 (10),
amended

(3) Subsection 12 (10) of the said Act is amended by adding thereto the following paragraph:

Application
of par. 1 to
controlled
corporation

3. Where a corporation is prescribed pursuant to paragraph 1, paragraph 1 shall apply to any corporation controlled by such corporation.

s. 13,
amended

3.—(1) Section 13 of the said Act is amended by adding thereto the following subsections:

Idem
R.S.C. 1952,
c. 148

(1a) Clauses 40 (1) (a) (iii) (B) and 44 (1) (e) (iii) (B) of the *Income Tax Act* (Canada) are not applicable for the purposes of this Act.

Idem

(1b) In the application of subparagraph 39 (1) (a) (ii) of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to paragraphs 59 (2) (b) and (e) is not applicable.

s. 13 (3),
re-enacted

(2) Subsection 13 (3) of the said Act is repealed and the following substituted therefor:

Idem

(3) In the application of subparagraph 40 (2) (a) (i) and paragraph 44 (7) (a) of the *Income Tax Act* (Canada) for the purposes of this Act, the said provisions shall be read as though the words “was not resident” were deleted and the words “ceased to have a permanent establishment” were inserted in lieu thereof.

s. 14 (3),
amended

4. Subsection 14 (3) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 4, is amended by adding thereto the following clause:

(c) paragraphs (3.3) (c), (d) and (e) of the said section shall be deemed to have come into force on the 12th day of December, 1979, and apply in respect of all taxation years ending after the 11th day of December, 1979.

s. 16 (1),
re-enacted;
s. 16 (1a),
(1b), enacted

5.—(1) Subsection 16 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 5, is repealed and the following substituted therefor:

(1) Where, by virtue of paragraph 59 (3.2) (c) of the *Income Tax Act* (Canada) as made applicable by section 14 of this Act, an amount has been included in computing a corporation's income for a taxation year (in this subsection referred to as the "initial year") and an amount has by virtue of the disposition of a property to which subsection 59 (1.1) or (3.1) of the said Act applies been included, by virtue of clause 66.2 (5) (b) (v) (A) of the said Act as made applicable by section 18a of this Act, in computing the cumulative Canadian development expense of the corporation at any time in the initial year and all or a portion of the amount so included in computing the corporation's cumulative Canadian development expense is not due until after the end of a taxation year, there may be deducted as a reserve in computing the income of the corporation for that taxation year in respect of the portion of the amount that is not due until after the end of that taxation year,

Reserves in respect of consideration for disposition of resource property not due until subsequent year
R.S.C. 1952, c. 148

- (a) where the taxation year is the initial year, the lesser of,
 - (i) the amount included in computing the corporation's income for the taxation year by virtue of paragraph 59 (3.2) (c) of the said Act as made applicable by section 14 of this Act, and
 - (ii) the part of the portion of the amount in respect of a disposition of the property that is not due until a day that is after the end of the taxation year; or
- (b) in any other case, the lesser of,
 - (i) the amount deducted under this clause or clause (a) in respect of the property in computing the corporation's income for the immediately preceding taxation year, and
 - (ii) the part of the portion of the amount in respect of the property that is not due until a day that is after the end of its taxation year,

and for greater certainty, no deduction may be made in respect of any amount or portion of any amount referred to in clause (a) or (b) by virtue of paragraph 20 (1) (n) of the said Act as made applicable by section 12 of this Act.

(1a) Where, by virtue of paragraph 59 (3.2) (c) of the *Income Tax Act* (Canada) as made applicable by section 14 of this Act, an amount has been included in computing a corporation's income for a taxation year (in this subsection referred to

Idem

as the "initial year") and an amount in respect of the disposition of a property to which subsection 59 (1.2) of the said Act applies has been included, by virtue of clause 66.4 (5) (b) (v) (A) of the said Act as made applicable by section 18a of this Act, in computing the cumulative Canadian oil and gas property expense of the corporation at any time in the initial year and all or a portion of the amount so included in computing the corporation's cumulative Canadian oil and gas property expense is not due until after the end of a taxation year, there may be deducted as a reserve in computing the income of the corporation for that taxation year in respect of the portion of the amount that is not due until after the end of that taxation year,

- (a) where the taxation year is the initial year, the least of,
 - (i) the amount, if any, by which the amount included in computing the corporation's income for the taxation year by virtue of paragraph 59 (3.2) (c) of the said Act as made applicable by section 14 of this Act exceeds the amount deducted under clause (1) (a) in computing its income for the year,
 - (ii) the amount determined under subsection 66.4 (1) of the said Act as made applicable by section 18a of this Act in respect of the corporation for the year, and
 - (iii) the part of the portion of the amount in respect of a disposition of the property that is not due until a day that is after the end of the year; or
- (b) in any other case, the lesser of,
 - (i) the amount deducted under this subsection in respect of the property in computing the corporation's income for the immediately preceding taxation year, and
 - (ii) the part of the portion of the amount in respect of the property that is not due until a day that is after the end of the taxation year,

and for greater certainty, paragraph 20 (1) (n) of the said Act as made applicable by section 12 of this Act does not apply with respect to any amount deductible under this subsection.

(1b) For the purposes of this Act, a reference in this Act or in the *Income Tax Act* (Canada) to section 64 of the *Income Tax Act* (Canada) shall be deemed to be a reference to subsections 16 (1) and (1a) of this Act.

Application
R.S.C. 1952,
c. 148

(2) Subsection 16 (2) of the said Act is amended by striking out “Subsection (1) does not apply” in the first line and inserting in lieu thereof “Subsections (1) and (1a) do not apply”.

s. 16 (2),
amended

6. Section 17 of the said Act is amended by adding thereto the following subsection:

s. 17,
amended

(3a) For the purpose of subsection (3), where an agreement has been made pursuant to subsection 65 (3) of the *Income Tax Act* (Canada), the ratio of the apportionment of the allowance that has been determined thereunder shall be deemed to apply for the purposes of this Act.

Idem

7.—(1) Subsection 18 (7) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6, is repealed and the following substituted therefor:

s. 18 (7),
re-enacted

(7) Subsections 66 (11), (11.1), (11.2) and (11.3) of the *Income Tax Act* (Canada), except paragraph 66 (11) (e), are applicable for the purposes of this Act.

Control
change

(2) Clause 18 (14) (h) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6, is repealed and the following substituted therefor:

s. 18 (14) (h),
re-enacted

(h) “outlay” or “expense” have the meaning given to those expressions by paragraphs 66 (15) (g.2) and (g.3) of the *Income Tax Act* (Canada).

8. Clause 22 (b) of the said Act is repealed and the following substituted therefor:

s. 22 (b),
re-enacted

(b) an amount determined in accordance with the rules provided in paragraphs 81 (1) (b), (c), (l), (m), (r) and (s) of the *Income Tax Act* (Canada) and subsection 81 (1.1) of that Act.

other
amounts

9. Subsection 25 (3) of the said Act is repealed and the following substituted therefor:

s. 25 (3),
re-enacted

(3) In the application of paragraph 96 (1) (d) of the *Income Tax Act* (Canada), for the purposes of this Act, the references therein to,

Application
of R.S.C.
1952,
c. 148,
s. 96 (1) (d)

R.S.C. 1952,
c. 148

- (a) subsection 66 (12.1) and paragraphs 66 (12.2) (a), 66 (12.3) (a) and 66 (12.5) (a) of the *Income Tax Act* (Canada) shall be deemed to be references to those provisions as made applicable by subsections 18 (11) and (12) of this Act;
- (b) subsection 65 (1) of the *Income Tax Act* (Canada) shall be deemed to be a reference to subsection 17 (1) of this Act; and
- (c) sections 66, 66.1, 66.2 and 66.4 of the *Income Tax Act* (Canada) shall be deemed to be references to sections 18 and 18a of this Act.

s. 27 (2),
re-enacted

10. Subsection 27 (2) of the said Act is repealed and the following substituted therefor:

Receipts;
application of
R.S.C. 1952,
c. 148, s. 110

(2) In the application of paragraphs 110 (1) (a), (b) and (b.1) of the *Income Tax Act* (Canada) and subsection 110 (2.2) of that Act for the purposes of this Act, the reference therein to "receipts" shall be deemed to mean receipts or photostatic reproductions thereof.

s. 30,
amended

11. Section 30 of the said Act is amended by striking out "14 per cent" in the fourth line and inserting in lieu thereof "15 per cent".

s. 31,
amended

12. Section 31 of the said Act is amended by striking out "14 per cent" in the third line and inserting in lieu thereof "15 per cent".

s. 32 (1) (e),
amended

13. Clause 32 (1) (e) of the said Act is amended by striking out "14 per cent" in the first line and inserting in lieu thereof "15 per cent".

s. 33 (1) (a),
amended

14.—(1) Clause 33 (1) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 19, section 2, is amended by striking out "4 per cent" in the first line and inserting in lieu thereof "5 per cent".

s. 33 (1) (b),
amended

(2) Clause 33 (1) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1982, chapter 19, section 2, is amended by striking out "14 per cent" in the first line and inserting in lieu thereof "15 per cent".

s. 33 (2a),
re-enacted

(3) Subsection 33 (2a) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 2, is repealed and the following substituted therefor:

(2a) For the purpose of clause (1) (b), a “tax exempt year” of a corporation is a taxation year ending after the 13th day of May, 1982 and before the 14th day of May, 1985, but in no case shall a corporation be entitled to have more than three tax exempt years. Definition,
tax exempt
year

(4) Subsection 33 (2b) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 2, is amended by adding at the end thereof “and for greater certainty “property” includes a business carried on by the vendor”. s. 33 (2b),
amended

15.—(1) Subsection 40 (2) of the said Act is amended by striking out “7 per cent” in the third line and inserting in lieu thereof “7.5 per cent”. s. 40 (2),
amended

(2) Subsection 40 (4) of the said Act is amended by striking out “14 2/7 times” in the third and fourth lines and inserting in lieu thereof “13 1/3 times”. s. 40 (4),
amended

(3) Subsections 40 (5) and (6) of the said Act are repealed and the following substituted therefor: s. 40 (5,6),
re-enacted

(5) In the application of subparagraph 131 (6) (d) (i) of the said Act for the purposes of this Act, Application
of
R.S.C. 1952,
c. 148,
s. 131 (6)
(d) (i)

(a) the percentage referred to in clauses (A) and (B) of the said subparagraph shall be read as “15 per cent”;
and

(b) the reference in clause (C) of the said subparagraph to “this Part” shall be read as a reference to Part II of this Act, and the said subparagraph shall be read without reference to the words “where the taxation year ended after May 6, 1974”.

(6) Where a corporation had a permanent establishment in a jurisdiction outside Ontario during a taxation year in respect of which this section applies, the “taxable income” and “taxed capital gains” determined for the purpose of paragraph 131 (6) (d) of the *Income Tax Act* (Canada) as made applicable by subsection (5) shall be reduced by that proportion thereof that the taxable income of the corporation that is deemed to have been earned in jurisdictions other than Ontario for the taxation year for the purposes of section 31 is of its total taxable income. Apportionment
of capital
gains refund

16. Subsection 49 (4) of the said Act is repealed and the following substituted therefor: s. 49 (4),
re-enacted

Application
of rules
under R.S.C.
1952, c. 148

(4) The rules provided in subsections 149 (2), (3), (4), (6), (8), (9), (10) and (11) of the *Income Tax Act* (Canada) are applicable for the purposes of this section.

s. 53 (1) (c)
(iii),
re-enacted

17.—(1) Subclause 53 (1) (c) (iii) of the said Act is repealed and the following substituted therefor:

(iii) subsections 16 (1) and (1a).

s. 53 (1) (d),
amended

(2) Clause 53 (1) (d) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 10, is amended by inserting after “corporation” in the ninth line “and all sums advanced or loaned to the corporation by any government”.

s. 54 (1) (c),
amended

18.—(1) Clause 54 (1) (c) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 11, is further amended,

(a) by inserting after “corporations” in the sixth line “or to any government”;

(b) by repealing subclause (iv) and substituting the following therefor:

(iv) loans and advances to any corporation, whether or not incorporated in Canada, doing the business of a bank or to any corporation registered under the *Loan and Trust Corporations Act* or that would be required to be registered under that Act if it were carrying on business in Ontario are deemed not to be loans and advances to other corporations unless they are issued for a term of 120 days or more and have been held by the corporation for at least 120 days;

(c) by adding “and” at the end of subclause (v) and adding thereto the following subclause:

(vi) “shares and bonds of other corporations” and “loans and advances to other corporations” do not include the shares and bonds of or loans and advances to a corporation that is exempt from the tax imposed under this Part by virtue of subsection 63 (1).

s. 54,
amended

(2) Section 54 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 11 and 1982, chapter 19, section 4, is further amended by adding thereto the following subsection:

(2c) For the purpose of this Part, “any other surplus” ^{Idem} includes, in addition to any other amount included therein by virtue of this section, the following amounts,

- (a) the amount described in subsection 78 (1) of the *Income Tax Act* (Canada); ^{R.S.C. 1952, c. 148}
- (b) the amount described in subsection 78 (3) of the *Income Tax Act* (Canada) where the corporation and the person to whom the amount was owing were not dealing at arm’s length at the time that the outlay or expense was incurred; and
- (c) dividends declared,

where such amounts are unpaid at the end of any taxation year following the taxation year in which the outlay or expense was incurred or the dividend declared.

(3) Clause 54 (3) (b) of the said Act is repealed and the following substituted therefor: ^{s. 54 (3) (b), re-enacted}

- (b) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is not deductible, or if deductible has not been deducted in computing its income for the year or a previous year, under Part II,

.

(4) Clause 54 (3) (c) of the said Act is amended by inserting after “deductible” in the fourth line “and has been deducted in computing its income for the year or a previous year”. ^{s. 54 (3) (c), amended}

(5) Subclause 54 (3) (c) (iii) of the said Act is repealed and the following substituted therefor: ^{s. 54 (3) (c) (iii), re-enacted}

(iii) subsections 16 (1) and (1a).

19.—(1) Subsection 61 (1) of the said Act is amended by adding “or” at the end of clause (b) and by adding thereto the following clause: ^{s. 61 (1), amended}

- (c) the lesser of,
 - (i) the tax that would otherwise be payable under this Part if subsection 58 (1) and subsection 59 (1) were applicable, and

(ii) \$100,

with respect to a loss year of the corporation, as defined in subsections (5) and (6), where its taxable paid-up capital exceeds \$1,000,000 but does not exceed \$2,000,000.

s. 61 (2),
amended

(2) Subsection 61 (2) of the said Act is amended by inserting after “corporation” in the third line “other than a corporation to which clause (1) (c) applies”.

s. 61 (4) (a),
amended

(3) Clause 61 (4) (a) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 13, is amended by inserting after “\$1,000,000” in the fourth line “or \$2,000,000 with respect to a loss year of the corporation as defined in subsections (5) and (6)”.

s. 61 (4) (b),
amended

(4) Clause 61 (4) (b) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 13, is amended by adding at the end thereof “or \$2,000,000 with respect to a loss year of the corporation as defined in subsections (5) and (6)”.

s. 61,
amended

(5) Section 61 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 13, is further amended by adding thereto the following subsections:

Definition,
“loss year”

(5) For the purpose of clause (1) (c), a “loss year” of a corporation means a taxation year in which the corporation has no taxable income for the year or a loss for the year if it has no income for the year or has a loss for the year after making the deductions permitted by Part II other than the deductions under,

(a) clauses 12 (7) (a) and (d);

R.S.C. 1952,
c. 148

(b) paragraphs 20 (1) (b) and (gg) of the *Income Tax Act* (Canada) as made applicable by section 12;

(c) subsection 20 (16) of the *Income Tax Act* (Canada) as made applicable by section 12;

(d) section 17; and

(e) paragraphs 110 (1) (a), (b) and (b.1) of the *Income Tax Act* (Canada) and sections 111, 112 and 113 of that Act, as made applicable by section 27.

Interpre-
tation

(6) For the purpose of subsection (5), a “loss year” of a corporation is a taxation year ending after the 10th day of May,

1983, and before the 11th day of May, 1985, but in no case shall a corporation have more than two loss years.

20. Subsection 70 (8) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 5, is repealed and the following substituted therefor:

s. 70 (8),
re-enacted

(8) For the purpose of subsection (2), where the previous taxation year of a corporation does not end on the last day of a calendar month,

Interpre-
tation

- (a) any reference to the last day of a month shall be deemed, in respect of that corporation, to be a reference to the day of that month corresponding to the day on which,
 - (i) the previous taxation year ended for purpose of clause (2) (a), and
 - (ii) the taxation year ended for purpose of clause (2) (b),

except that where either the previous taxation year or the taxation year ends on the 29th, 30th or 31st day of a month, the said reference to the last day of a month shall, with respect to the month of February, be deemed to be a reference to the last day of that month; and

- (b) notwithstanding clause (a), twelve instalments are required where the taxation year of a corporation is more than 350 days and the last instalment shall be paid on or before the last day of the taxation year.

21.—(1) Section 72 of the said Act is amended by adding thereto the following subsection:

s. 72,
amended

(5a) Subsection (5) does not apply where a corporation fails to submit the information required by subsection 67 (2) on the return required by subsection 67 (1) if the tax payable by virtue of the reassessment is greater than the tax previously assessed.

Subs. (5)
not
applicable
in certain
case

(2) Subsection 72 (6) of the said Act is amended by striking out “the taxation year immediately following” in the fourth and fifth lines and inserting in lieu thereof “a taxation year following”.

s. 72 (6),
amended

22. Subsection 73 (8) of the said Act is amended by striking out “within one year” in the second line and inserting in lieu thereof “within three years” and by striking out “the taxation

s. 73 (8),
amended

year immediately following” in the seventh and eighth lines and inserting in lieu thereof “a taxation year following”.

s. 75,
amended

23.—(1) Section 75 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 19, section 6, is further amended by adding thereto the following subsection:

Idem

(1b) Where a corporation has paid instalments of tax in accordance with clause 70 (2) (a) in respect of a taxation year, the Minister may make a refund of such instalments prior to making his assessment under section 73 if application therefor has been made in writing by the corporation.

s. 75 (7),
amended

(2) Subsection 75 (7) of the said Act is amended by striking out “the taxation year immediately following” in the fourth and fifth lines and inserting in lieu thereof “a taxation year following”.

s. 100 (1) (f),
re-enacted

24. Clause 100 (1) (f) of the said Act is repealed and the following substituted therefor:

(f) prescribing rates of interest for the purposes of Part V or a formula for computing those rates and the method of calculating that interest.

Commence-
ment and
application

25.—(1) Subsection 1 (1) shall be deemed to have come into force on the 13th day of November, 1981 and applies to corporations in respect of all taxation years commencing after the 12th day of November, 1981.

Idem

(2) Subsection 1 (2) shall come into force on the 1st day of July, 1983 and applies in respect of changes in fiscal periods approved by the Minister of National Revenue after the 30th day of June, 1983.

Idem
R.S.C. 1952,
c. 148;
R.S.O. 1980,
c. 97

(3) The reference to section 12 of the *Income Tax Act* (Canada) contained in subclause 1 (2) (d) (iv) of the *Corporations Tax Act*, as re-enacted by subsection 1 (3) of this Act, shall be deemed to have come into force on the 8th day of December, 1977 and applies to corporations in respect of all taxation years ending after the 7th day of December, 1977.

Idem

(4) The reference to section 69 of the *Income Tax Act* (Canada) as contained in subclause 1 (2) (d) (iv) of the *Corporations Tax Act*, as re-enacted by subsection 1 (3) of this Act, shall be deemed to have come into force on the 1st day of February, 1982 and applies to purchases made after the 31st day of January, 1982.

(5) Subsections 2 (1) and (2), sections 11, 12 and 13, subsections 14 (1), 14 (2), 15 (1) and 15 (2), and clause 40 (5) (a) of the said Act, as enacted by subsection 15 (3) of this Act, shall be deemed to have come into force on the 11th day of May, 1983 and apply to corporations in respect of all taxation years ending after the 10th day of May, 1983, except that with respect to the taxation year ending after the 10th day of May, 1983 and that includes that day, the following rules apply: Idem

- (a) determine the amount of tax payable under Part II of the said Act as that Part stood on the 10th day of May, 1983 on the assumption that that Part as it so stood was applicable to that taxation year;
- (b) determine the proportion of the amount determined under clause (a) that the number of days of that taxation year prior to the 11th day of May, 1983 bears to the total number of days of that taxation year;
- (c) determine the amount of tax payable under Part II of the said Act, as amended by subsections 2 (1) and (2), sections 11, 12 and 13, subsections 14 (1), 14 (2), 15 (1) and 15 (2), and clause 40 (5) (a) of the said Act, as enacted by subsection 15 (3) of this Act, on the assumption that that Part as so amended was applicable for that taxation year;
- (d) determine the proportion of the amount determined under clause (c) that the number of days of that taxation year that follow the 10th day of May, 1983 bears to the total number of days of that taxation year;
- (e) determine the aggregate of the amounts determined under clauses (b) and (d) in respect of the corporation,

and the aggregate determined under clause (e) is the amount payable by the corporation under Part II of the said Act, as amended by subsections 2 (1) and (2), sections 11, 12 and 13, subsections 14 (1), 14 (2), 15 (1) and 15 (2), and clause 40 (5) (a) of the said Act, as enacted by subsection 15 (3) of this Act, for its taxation year that ends after the 10th day of May, 1983 and that includes that day.

(6) Subsections 2 (3) and 23 (1) and section 24 shall come into force on the day this Act receives Royal Assent. Idem

(7) Subsection 13 (1a) of the said Act, as enacted by subsection 3 (1) of this Act, and section 5 shall be deemed to have come into force on the 13th day of November, 1981 and apply to dis- Idem

positions of property occurring after the 12th day of November, 1981.

Idem

(8) Subsection 13 (1b) of the said Act, as enacted by subsection 3 (1) of this Act, shall be deemed to have come into force on the 8th day of December, 1977 and applies to corporations in respect of all taxation years ending after the 7th day of December, 1977.

Idem

(9) Subsection 3 (2) shall be deemed to have come into force on the 12th day of December, 1979 and applies to dispositions of property occurring after the 11th day of December, 1979.

Idem

(10) Section 4 shall be deemed to have come into force on the 12th day of December, 1979 and applies to corporations in respect of all taxation years ending after the 11th day of December, 1979.

Idem

(11) Section 6, subsection 17 (2), clauses 18 (1) (a) and (c), subsections 18 (2), (3) and (4), section 19 and subsection 21 (1) shall be deemed to have come into force on the 11th day of May, 1983 and apply to corporations in respect of all taxation years ending after the 10th day of May, 1983.

Idem

(12) Subsections 7 (1), 17 (1) and 18 (5) shall be deemed to have come into force on the 13th day of November, 1981 and apply to corporations in respect of all taxation years ending after the 12th day of November, 1981.

Idem

(13) Subsection 7 (2) shall be deemed to have come into force on the 20th day of May, 1981 and applies to outlays and expenses made or incurred after the 19th day of May, 1981.

Idem

(14) Section 8 shall be deemed to have come into force on the 1st day of January, 1982 and applies to corporations in respect of all taxation years ending after 1981.

Idem

(15) Section 9 shall be deemed to have come into force on the 20th day of May, 1981 and applies to corporations in respect of all taxation years ending after the 19th day of May, 1981.

Idem

(16) Section 10 shall be deemed to have come into force on the 1st day of January, 1980 and applies to gifts made after 1979.

Idem

(17) Subsections 14 (3) and (4) shall be deemed to have come into force on the 14th day of May, 1982 and applies to corporations in respect of all taxation years ending after the 13th day of May, 1982.

(18) Subsection 15 (3), except clause 40 (5) (a) as enacted by the said subsection, shall be deemed to have come into force on the 1st day of January, 1972 and applies to corporations in respect of all taxation years ending after 1971, except that for the purpose of computing a corporation's "refundable capital gains tax on hand" for the purposes of subsections 40 (5) and (6) of the said Act, the percentage referred to in clauses (A) and (B) of subparagraph 131 (6) (d) (i) of the *Income Tax Act* (Canada) shall, with respect to a taxation year, Idem

- (a) that ends before the 8th day of March, 1978, be read as "12 per cent";
- (b) that ends after the 7th day of March, 1978, and before the 11th day of April, 1979, be read as "13 per cent", except that with respect to a taxation year that ends after the 7th day of March, 1978, and that includes that day, be read as "12 per cent plus that proportion of 1 per cent that the number of days of that taxation year after the 7th day of March, 1978, bears to the total number of days of that taxation year";
- (c) that ends after the 10th day of April, 1979, and before the 11th day of May, 1983, be read as "14 per cent", except that with respect to a taxation year that ends after the 10th day of April, 1979, and that includes that day, be read as "13 per cent plus that proportion of 1 per cent that the number of days of that taxation year after the 10th day of April, 1979, bears to the total number of days of that taxation year"; and
- (d) that ends after the 10th day of May, 1983, and that includes that day, be read as "14 per cent plus that proportion of 1 per cent that the number of days of that taxation year after the 10th day of May, 1983, bears to the total number of days of that taxation year".

(19) Section 16 shall be deemed to have come into force on the 13th day of November, 1981 and applies to corporations that become taxable after the 12th day of November, 1981. Idem

(20) Clause 18 (i) (b) shall be deemed to have come into force on the 23rd day of April, 1980 and applies to corporations in respect of all taxation years ending after the 22nd day of April, 1980. Idem

Idem

(21) Section 20 shall be deemed to have come into force on the 1st day of January, 1981 and applies to corporations in respect of all taxation years ending after 1980.

Idem

(22) Subsection 21 (2), section 22 and subsection 23 (2) shall be deemed to have come into force on the 1st day of January, 1980 and apply to corporations in respect of all taxation years ending after 1979 with respect to losses for taxation years ending after 1982.

Short Title

26. The short title of this Act is the *Corporations Tax Amendment Act, 1983*.

Bill 39



**An Act to amend the
Inflation Restraint Act, 1982**

Mr. Peterson

1st Reading May 12th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. The amendment would make the Act subject to the *Statutory Powers Procedure Act*, thus guaranteeing the right to a hearing and the right to receive reasons for a decision from the Board, and would also add a right of appeal to Cabinet from any decision of the Board.

SECTION 2. The amendment would exempt from the transitional provisions bargaining groups that submitted to binding arbitration on or before September 21, 1982.

SECTION 3. The amendment would fix a 9 per cent transitional increase, rather than setting a maximum at that level, and would remove long-outstanding contracts from the Board's jurisdiction, returning them to the collective bargaining process.

SECTION 4.—Subsection 1. This amendment would eliminate the differential treatment of union and non-union workers, giving both groups mandatory increases of 5 per cent in the control year.

Subsection 2. The amendment would provide for a minimum increase of \$1,200 and eliminate the discretionary increase. Increases would then range from 12 per cent at \$10,000 to 5 per cent at \$24,000 and above.

Subsection 3. Restrictions on seniority and merit increases for persons whose compensation rate exceeds \$35,000 are eliminated.

SECTION 5. The amendment would allow for ordinary collective bargaining on non-monetary issues in collective agreements that are extended by the Act.

SECTION 6. Consequential amendments.

SECTION 7. The amendment would bring the OHIP fee schedule into the category of administered prices, thus making increases reviewable.

SECTION 8.—Subsection 1. The amendment would require the Minister to publish the economic criteria by which price increases are reviewed.

Subsection 2. The amendment would permit the review of increases in administered prices which take effect after September 21, 1982 but were announced before that date.

Subsection 3. The amendment would allow any person to refer a price increase to the Board for investigation. The existing section confines this power to the Minister.

Subsection 4. The amendment is complementary to subsection (3).

SECTION 9. The amendment would restrict Ontario Hydro rates to a 5 per cent increase during the control period and would restrict increases in residential rents during the control period to 5 per cent, without cost pass-throughs.

Bill 39

1983

**An Act to amend the
Inflation Restraint Act, 1982**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 (4) of the *Inflation Restraint Act, 1982*, being chapter 55, is repealed and the following substituted therefor:

s. 3 (4),
re-enacted

(4) Before making an order, decision or determination that the Board is authorized to make, the Board shall hold a hearing, and the *Statutory Powers Procedure Act* applies to such a hearing.

Hearings

R.S.O. 1980,
c. 484

(4a) Upon the petition of any person interested, filed with the Clerk of the Executive Council within thirty days after the date of any order, decision or determination of the Board, the Lieutenant Governor in Council may,

Petition to
L.G. in C.

- (a) confirm, vary or rescind the whole or any part of the order, decision or determination; or
- (b) require the Board to hold a new public hearing into the whole or any part of the matter in respect of which the order, decision or determination of the Board was made,

and the decision of the Board after the public hearing ordered under clause (b) is not subject to petition under this subsection.

(4b) Any person who has filed a petition under subsection (4a) may at any time withdraw the petition by filing a notice of withdrawal with the Clerk of the Executive Council.

Withdrawal
of petition

2. Section 9 of the said Act is amended by adding thereto the following subsection:

s. 9,
amended

(2) Subsection (1) does not apply to a compensation plan that expired before the 1st day of October, 1982 and became

Exception re
binding
arbitration

the subject of binding arbitration on or before the 21st day of September, 1982.

s. 10,
amended

3. Section 10 of the said Act is amended by striking out “not more than” in the last lines of clause (a) and subclause (b) (ii), and by striking out “Board, in its discretion, may authorize” in the fourth line of subclause (b) (i) and inserting in lieu thereof “parties to the collective agreement may agree”.

s. 12 (1),
re-enacted

4.—(1) Subsection 12 (1) of the said Act is repealed and the following substituted therefor:

Increase in
compensation
rates
under
extended
plan

(1) Notwithstanding any other Act, every compensation plan to which this Part applies shall be deemed to include a provision to the effect that compensation rates in effect under the plan on the first to occur of either,

- (a) the day that, but for section 11, the plan would expire; or
- (b) the day immediately preceding the plan’s anniversary date referred to in clause 11 (b),

shall be increased by 5 per cent for the twelve-month period immediately following the day determined in accordance with clauses (a) and (b).

s. 12 (2),
amended

(2) Subsection 12 (2) of the said Act is amended by striking out “may, in his discretion” in the seventh line, in the seventh line of clause (a) and in the fourth line of clause (b) and inserting in lieu thereof “shall”, and by striking out “\$1,000” in the fifth line, in the ninth line, in the third-last line of clause (b) and in the last line and inserting in lieu thereof “\$1,200”.

s. 12 (3-5),
repealed

(3) Subsections 12 (3), (4) and (5) of the said Act are repealed.

s. 13 (b),
repealed

5. Clause 13 (b) of the said Act is repealed.

s. 14 (1),
re-enacted

6.—(1) Subsection 14 (1) of the said Act is repealed and the following substituted therefor:

Disputed
matters

- (1) Where the parties to a collective agreement,
 - (a) cannot agree on the value to be placed on a proposed change to any terms and conditions of the compensation plan equivalent to an increase in compensation rates, but are agreed on all other aspects of the proposed change; or

- (b) have agreed on all aspects of a proposed change to the terms and conditions of the compensation plan equivalent to an increase in compensation rates, including the value thereof,

either party may apply to the Board in accordance with such procedure as the Board specifies to have the disputed matters resolved or, in the case of a proposed change referred to in clause (b), to have the proposed change reviewed by the Board, and the Board shall, in accordance with this Act and in its discretion, determine the value to be placed on a proposed change referred to in clause (a) or (b), provided that,

- (c) for the period referred to in clause 10 (a) or sub-clause 10 (b) (ii), the value of such proposed change does not constitute an increase that is equivalent to more than the increase referred to in those provisions; and
- (d) for the period referred to in subsection 12 (1), the value of such proposed change does not constitute an increase that is equivalent to more than the increase permitted under section 12.

(2) Subsection 14 (3) of the said Act is repealed.

s. 14 (3),
repealed

7. Clause 26 (a) of the said Act is amended by adding thereto the following subclause:

s. 26 (a),
amended

- (iii) the amounts payable by the Ontario Health Insurance Plan under the *Health Insurance Act* for insured services rendered by physicians and practitioners.

R.S.O. 1980,
c. 197

8.—(1) Subsection 27 (1) of the said Act is repealed and the following substituted therefor:

s. 27 (1),
re-enacted

(1) The Minister shall establish, and may from time to time amend, economic criteria by which price increases shall be reviewed and,

Minister to
establish and
publish
economic
criteria

- (a) shall publish the criteria and any amendments in *The Ontario Gazette*;
- (b) shall circulate the criteria and any amendments to every public agency and public regulatory agency; and

- (c) may give public notice of the criteria and any amendments in such manner as the Minister considers appropriate.

s. 27 (2),
amended

(2) Subsection 27 (2) of the said Act is amended by inserting after “occurs” in the third line “or takes effect”.

s. 27,
amended

(3) Section 27 of the said Act is amended by adding thereto the following subsection:

Idem

(2a) Any person may request that the Board investigate a price increase where the price increase occurs or takes effect on or after the 21st day of September, 1982 and before the later of,

- (a) the 1st day of January, 1984; and
- (b) in the case of a public agency or a person regulated by a public regulatory agency that has implemented a price increase on or after the 21st day of September, 1982 and prior to the 1st day of January, 1984, the day one year from the last such increase.

s. 27 (3),
re-enacted

(4) Subsection 27 (3) of the said Act is repealed and the following substituted therefor:

Powers and
duties of the
Board

(3) Where a price increase is referred to the Board by the Minister or where a person requests an investigation under subsection (2a), the Board shall,

- (a) investigate and report on the price increase and determine whether it conforms to the criteria;
- (b) where the Board determines that the price increase does not conform to the criteria, determine, or request the public agency or public regulatory agency concerned to determine, the maximum price increase which would so conform; and
- (c) report to the Minister and, in the case of an investigation requested under subsection (2a), notify the person of the result of its investigation and determination under clauses (a) and (b).

ss. 35a, 35b,
enacted

9. The said Act is amended by adding thereto the following sections:

R.S.O. 1980,
c. 332, s. 37,
amended

35a. Section 37 of the *Ontario Energy Board Act*, being chapter 332 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

(11) Notwithstanding anything else in this section, during the period from the 21st day of September, 1982 to the 31st day of December, 1983 Ontario Hydro shall not increase any of its rates or charges for any customer so as to exceed an annual rate of increase of 5 per cent based on the rates and charges in effect on the 21st day of September, 1982.

Rate
increases
restricted

35b. The *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

R.S.O. 1980,
c. 452,
s. 125a,
enacted

125a. Despite anything else in this Part, during the period from the 21st day of September, 1982 to the 31st day of December, 1983, no landlord shall increase the rent charged for a rental unit by more than 5 per cent of the last rent that was charged for an equivalent rental period.

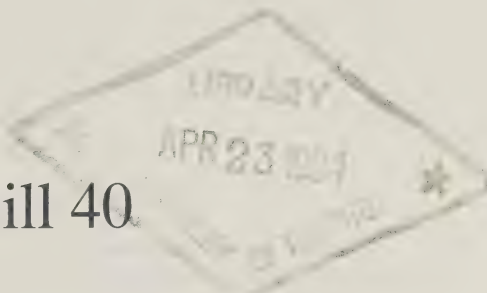
Idem

10. This Act shall be deemed to have come into force on the 21st day of September, 1982.

Commence-
ment

11. The short title of this Act is the *Inflation Restraint Amendment Act, 1983*.

Short title



Bill 40

An Act to revise the Grain Elevator Storage Act

The Hon. D. R. Timbrell
Minister of Agriculture and Food

1st Reading May 13th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to revise and update the *Grain Elevator Storage Act* to provide additional protection for persons storing farm produce in a grain elevator by,

- (a) revising procedures for accounting for grain in storage (sections 16 and 17);
- (b) revising the provisions of the present Act respecting insurance on grain in storage (section 19);
- (c) dealing with agreements to sell grain in storage, payment for grain sold and the matter of title to grain in storage (sections 15 and 17);
- (d) enlarging the powers of the chief inspector (subsection 15 (4) and section 24).

The licensing provisions of the present Act are also revised and updated (sections 3-12).

The present offence section is enlarged and the maximum fine for a contravention of the Act is increased (section 25).

Bill 40

1983

**An Act to revise the
Grain Elevator Storage Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “agreement to sell” means a written agreement for the sale of farm produce that is stored or to be stored made between a grain elevator operator and an owner of farm produce;
- (b) “Board” means the Agricultural Licensing and Registration Review Board under the *Ministry of Agriculture and Food Act*; R.S.O. 1980,
c. 270
- (c) “chief inspector” means the chief inspector appointed under this Act;
- (d) “farm produce” means beans, corn, grain, grass seeds and oil seeds and all classes thereof produced in Ontario;
- (e) “grain elevator” means any building, container, structure or receptacle in which farm produce is received for storage, but does not include,
 - (i) premises where a producer receives or stores farm produce as farm feed for his own live stock or poultry,
 - (ii) premises where a producer stores and sells farm produce actually produced by that producer, or
 - (iii) premises where a terminal, transfer or processor grain elevator is licensed under any Act of the Parliament of Canada;

- (f) “grain elevator operator” means a person who operates a grain elevator;
- (g) “grain storage receipt” means a receipt as prescribed by the regulations that is to be issued by a grain elevator operator or his authorized representative to the owner of farm produce;
- (h) “licence” means a licence under this Act;
- (i) “Minister” means the Minister of Agriculture and Food;
- (j) “regulations” means the regulations made under this Act;
- (k) “stored”, when used with respect to farm produce, means placed in a grain elevator upon terms that the ownership shall remain in the owner of the farm produce until such time as the owner has sold the farm produce and has received due compensation or has removed the farm produce from the elevator, and “storage” has a corresponding meaning; and
- (l) “weigh ticket” means a receipt as prescribed by the regulations that is to be issued by a grain elevator operator or his employee to the owner of farm produce or his agent. R.S.O. 1980, c. 191, s. 1, *amended*.

Appointment
of chief
inspector and
inspectors

2.—(1) The Minister may appoint a chief inspector and such other inspectors as he considers necessary to enforce this Act and the regulations.

Certificate
of
appointment

(2) The production by an inspector of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of his appointment without further proof of the signature and authority of the Minister.

Powers of
inspector

(3) Subject to subsections (4), (5), (6) and (7), an inspector may, for the purpose of carrying out his duties under this Act, upon production of a certificate of his appointment,

- (a) enter any grain elevator including any building used in connection therewith that he believes on reasonable and probable grounds are used by a grain elevator operator and inspect such grain elevator or building and any grain stored and any books, records or documents pertaining thereto; and

- (b) demand the production or furnishing by the owner or custodian thereof of any books, records, documents or extracts therefrom relating to grain stored by a grain elevator operator.
- (4) Except under the authority of a warrant under section 142 of the *Provincial Offences Act*, an inspector shall not enter any part of a dwelling without the consent of the occupant.

Entry of dwelling
R.S.O. 1980, c. 400
- (5) An inspector shall exercise his powers under subsection (3) at all reasonable times, but nothing in this section affects the issuance and execution of a warrant under section 142 of the *Provincial Offences Act*.

When powers to be exercised
- (6) Where an inspector demands the production or furnishing of books, records or documents or extracts therefrom, the person having custody thereof shall produce or furnish them immediately to the inspector, and the inspector may remove and detain them for the purpose of making, or causing to be made, one or more copies thereof if such copies are made with reasonable dispatch, and the inspector shall forthwith thereafter return them to the person who produced or furnished them.

Production of records, etc.
- (7) Where a copy of a book, record, document or extract has been made under subsection (6), a copy purporting to be certified by the inspector to be a copy made under subsection (6) is admissible in evidence and has the same probative force as the original document would have if it had been proven in the ordinary way.

Certification of copy
- (8) No person shall hinder or obstruct an inspector in the course of his duties or furnish him with false information or refuse to furnish him with information. R.S.O. 1980, c. 191, s. 6.

Obstruction of inspector
- 3.—(1) No person shall receive or offer to receive farm produce for storage at a grain elevator unless he is the holder of a licence as a grain elevator operator issued by the chief inspector in respect of the grain elevator. R.S.O. 1980, c. 191, s. 7 (1).

Licences
- (2) A person shall make a separate application and obtain a separate licence for each different location on which he operates a grain elevator.

Separate application for each location
- (3) A licence may be transferred, subject to the approval of the chief inspector and on such terms and conditions as he may impose, on the application of the transferee. *New.*

Licence may be transferred

Application
for licence

4. An application for a grain elevator operator's licence shall be made by the applicant on forms supplied by the chief inspector and the application shall require that the applicant,

- (a) produce a current financial statement; and
- (b) disclose,
 - (i) the name and location of the bank currently servicing the grain elevator storage business of the applicant,
 - (ii) the location, capacity and ownership of each grain elevator,
 - (iii) the type and kind of farm produce to be received or stored in each elevator,
 - (iv) the names and signatures of all persons authorized to sign a grain storage receipt or an agreement to sell for farm produce received or stored at the grain elevator, and
 - (v) any other additional information in relation to the operation of the grain elevator that the chief inspector may require. *New.*

Issue of
licence

5.—(1) The chief inspector shall issue a licence as a grain elevator operator to a person who makes an application therefor in accordance with this Act and the regulations and pays the prescribed fee, except where,

- (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to carry on business as a grain elevator operator;
- (b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors affords reasonable grounds for belief that the business will not be carried on in accordance with the law or with integrity and honesty;
- (c) the applicant does not possess or will not have available all premises, facilities and equipment necessary to carry on the business in accordance with this Act and the regulations;
- (d) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations;

- (e) the applicant was previously the holder of a licence and,

(i) such licence was revoked, or

- (ii) the applicant or, where the applicant is a corporation, any officer, servant or director thereof or any person who will be in any way associated with the applicant in connection with the business was convicted of an offence,

under this Act, and the grounds for such revocation or conviction warrant a refusal to issue the licence; or

- (f) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business. R.S.O. 1980, c. 191, s. 7 (2), *amended*.

(2) A licence issued under subsection (1) may be made subject to such terms and conditions as are prescribed in the licence or by the regulations. *New*. Terms and conditions

6. The chief inspector may issue a temporary licence to an applicant on such terms and conditions as for such length of time as the chief inspector considers proper where he is of the opinion that, Temporary licence

- (a) the applicant requires only a temporary licence;
- (b) conditions should be imposed on an applicant that must be fulfilled prior to a licence being issued; or
- (c) the circumstances or the information provided by the applicant do not justify the issuance of a licence. *New*.

7.—(1) Subject to section 10, the chief inspector may at any time review a licence on his own initiative and attach such further terms and conditions as he considers proper to give effect to the purposes of this Act. Review of licence

(2) The chief inspector may, on the application of a licensee, remove any terms or conditions to which the licence was made subject under subsection (1) where there is a change or circumstances. *New*. Removal of terms and conditions

8. Every licensee shall forthwith report in writing to the chief inspector where there has been a change, Report of change

- (a) in the location of the banking facilities of the licensee;
- (b) in the nature or form of the ownership of the grain storage elevator in respect of which the licence has been issued;
- (c) in the control of the grain elevator or of the business operations thereof; and
- (d) in the persons authorized to sign a storage receipt or an agreement to sell. *New.*

Refusal
to issue
or approve
transfer of
licence

9.—(1) Subject to section 10, the chief inspector may refuse to issue or refuse to approve the transfer of a licence where, in the opinion of the chief inspector, the applicant is not entitled to a licence under the provisions of this Act and the regulations applicable to such refusal. *New.*

Refusal
to renew,
suspension
or revocation

(2) Subject to section 10, the chief inspector may refuse to renew or may suspend or revoke a licence issued under section 5 or 6 where,

- (a) any ground exists that would disentitle the applicant to the issuance of a licence under section 5;
- (b) the licensee is in contravention of a term or condition of his licence;
- (c) the licensee, or anyone under his control, has contravened any provision of this Act or the regulations or of any other law in force in Ontario that applies to the carrying on of the grain elevator storage business; or
- (d) any other ground for refusal to renew, suspension or revocation specified in the regulations exists. R.S.O. 1980, c. 191, s. 8 (1), *amended.*

Continuation
of licence
pending
renewal

(3) Where, within the time prescribed therefor, or if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and paid the prescribed fee and observed or carried out the provisions of the Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the chief inspector on his application for renewal. R.S.O. 1980, c. 191, s. 8 (2).

Notice of
proposal

10.—(1) Where the chief inspector proposes,

- (a) to refuse to issue a licence, to refuse to renew a licence or to refuse to approve the transfer of a licence;
- (b) to suspend or revoke a licence; or
- (c) to attach terms and conditions to a licence or to refuse to remove a term or condition of a licence under subsection 7 (2),

he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee affected.

(2) A notice under subsection (1) shall inform the applicant or licensee that he is entitled to a hearing by the chief inspector if he mails or delivers to the chief inspector, within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing by the chief inspector and he may so require such a hearing. *New.*

Notice of
entitlement
to hearing

(3) The notice under subsection (1) shall afford to the applicant or licensee a reasonable opportunity to show or achieve compliance before the hearing with all lawful requirements for the issuance or retention of the licence. R.S.O. 1980, c. 191, s. 9 (1), *amended.*

Opportunity
to comply

(4) An applicant or licensee who is a party to the hearing shall be afforded an opportunity to examine before the hearing any documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. R.S.O. 1980, c. 191, s. 9 (2), *amended.*

Examination
of
documentary
evidence

(5) Where an applicant or licensee does not require a hearing by the chief inspector in accordance with subsection (2), the chief inspector may carry out the proposal stated in his notice under subsection (1). *New.*

Powers of
chief
inspector
where no
hearing

11. Where the chief inspector has refused to issue, refused to approve a transfer of or refused to renew or has suspended or revoked a licence after a hearing, he may, at any time of his own motion or on the application of the person who was the applicant or licensee, vary or rescind his decision, but the chief inspector shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision after the rehearing as he considers proper under this Act and the regulations. R.S.O. 1980, c. 191, s. 10, *amended.*

Variation
of decision
by chief
inspector

12.—(1) Where the chief inspector refuses to issue, refuses to approve a transfer of, refuses to renew or suspends

Appeal to
Board

or revokes a licence, the applicant or licensee may, by written notice delivered to the chief inspector and filed with the Board within fifteen days after receipt of the decision of the chief inspector, appeal to the Board.

Extension
of time for
giving notice

(2) The Board may extend the time for giving notice by an appellant or licensee under subsection (1), either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Powers of
Board

(3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or revoked and may after the hearing confirm or alter the decision of the chief inspector or direct the chief inspector to do any act he is authorized to do under this Act and the regulations and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the chief inspector.

Effect of
decision
pending
notice of
appeal

(4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the chief inspector, unless the chief inspector otherwise directs, the decision of the chief inspector is effective until the appeal is disposed of. R.S.O. 1980, c. 191, s. 11.

Parties

13.—(1) The chief inspector, the appellant and such other persons as the Board may specify are parties to the proceedings before the Board under this Act.

Members
making
decision
not to
have taken
part in
investi-
gation, etc.

(2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an advisor independent from the parties and, in such case, the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording
of evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

(4) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. Findings of fact
R.S.O. 1980, c. 484

(5) No member of the Board shall participate in a decision of the Board after a hearing unless he was present throughout and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision. R.S.O. 1980, c. 191, s. 12 Only members present at hearing to participate in decision

14.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court. Appeal to Divisional Court

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Minister entitled to be heard

(3) The chairman of the Board shall file with the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board if it is not part of the Board's record, shall constitute the record in the appeal. Record to be filed in court

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the chief inspector to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the chief inspector or of the Board. Powers of court on appeal

(5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of. R.S.O. 1980, c. 191, s. 13. Effect of decision of Board pending appeal

15.—(1) All farm produce delivered to a grain elevator shall be deemed to be for storage and such delivery and storage shall not constitute a sale unless it is established to the contrary in writing or by a court of competent jurisdiction. R.S.O. 1980, c. 191, s. 2 (1), *amended*. Delivery deemed to be for storage

(2) Notwithstanding any other Act, the property in and the title to farm produce stored in a grain elevator remains at all times in the owner of the farm produce. Title to remain in owner

Notice to
chief
inspector

(3) Every person who intends to take control of a grain elevator or the business operations of a grain elevator operator shall notify verbally the office of the chief inspector of such intention and the location of the grain elevator prior to taking control of the grain elevator or business operations.

Chief
inspector
shall be
permitted
to enter

(4) Every person who has taken control of a grain elevator or the business operations of a grain elevator operator shall permit the chief inspector to enter the premises and ascertain the amount of farm produce that is stored on the premises and the chief inspector may authorize and direct the removal of any or all of such farm produce. *New.*

Weigh ticket

16.—(1) Where farm produce is delivered to a grain elevator, the owner of the farm produce or, where delivery is made by his agent, the agent, shall state whether the farm produce is for storage, is sold or is for any other specified use and the grain elevator operator or his employee shall so mark and issue to the owner or agent, as the case may be, a weigh ticket for each and every delivery.

Grain
storage
receipt

(2) Where a grain elevator operator or his employee issues weigh tickets in respect of farm produce delivered for storage, the grain elevator operator or his authorized representative shall issue a grain storage receipt within five days, if requested, but in no case later than thirty days, after the date of the first weigh ticket issued respecting the particular lot of farm produce delivered for storage.

Idem

(3) Where a grain storage receipt is issued, it supersedes and replaces all weigh tickets issued in respect of the particular lot of farm produce described in the grain storage receipt.

Not more
than
one grain
storage
receipt

(4) No person shall issue or receive more than one grain storage receipt in respect of the same lot of farm produce delivered.

Signing
of receipt

(5) No person shall sign a grain storage receipt on behalf of a grain elevator operator, except a person authorized by him.

Delivery
of receipt

(6) Where a grain elevator operator issues a grain storage receipt, he shall ensure that the receipt is forthwith delivered or forwarded to the owner of the farm produce. *New.*

Agreement
to sell

17.—(1) An agreement to sell shall be in the form prescribed by the regulations.

Property
in and title
to grain
produce

(2) Where farm produce is in storage and is subject to an agreement to sell, the property in and title to the farm produce remains in the owner thereof until the owner has received the

price agreed upon by the owner and the grain elevator operator.

(3) Where the owner of farm produce in storage has sold the farm produce to the grain elevator operator or through the grain elevator operator as his agent to any other person, the grain elevator operator shall ensure that the owner receives payment as promptly and in such manner as is provided for in the regulations. *New.* Payment

18.—(1) No person shall issue a weigh ticket or grain storage receipt or sign an agreement to sell without making and keeping a complete record of all matters pertaining thereto. Records

(2) Every grain elevator operator shall keep copies of all weigh tickets issued by him or his employee in a separate account for each owner until such time as a grain storage receipt is issued that replaces the full amount of the weigh tickets held in a separate account for that owner. *New.* Weigh ticket

19.—(1) Every grain elevator operator shall insure and keep insured with an insurer licensed under the *Insurance Act* all farm produce in his grain elevator or stored by the grain elevator operator on unlicensed premises against loss or damage by fire, lightning, explosion, windstorm and hail to the full market value of the farm produce. R.S.O. 1980, c. 191, s. 18 (1), *amended.* Insurance
R.S.O. 1980,
c. 218

(2) Every contract of insurance obtained under subsection (1) shall provide that the proceeds of the contract are payable to the holders of grain storage receipts or weigh tickets for farm produce stored in the elevator as their interest may respectively appear in priority to any claim by the grain elevator operator or any person acting as assignee or representative of the grain elevator operator. Payment of
proceeds

(3) Every grain elevator operator shall furnish to the chief inspector certified copies of the policies providing the insurance coverage referred to in subsection (1) forthwith after the coverage comes into force. *New.* Certified
copies of
policies
to be
furnished

(4) Every contract of insurance in which the coverage referred to in subsection (1) is included shall provide that payment thereunder shall not be made without the consent of the chief inspector. R.S.O. 1980, c. 191, s. 18 (2). Chief
inspector's
consent to
payment

(5) Where any loss or damage referred to in subsection (1) occurs, the grain elevator operator shall so notify the chief inspector forthwith. Notice to
chief
inspector

Statement
of value
of farm
produce

(6) Every grain elevator operator shall provide to the chief inspector in such form and at such times as the chief inspector requires a statement setting out the full market value of all of the farm produce currently in his grain elevator or stored by him on unlicensed premises.

Storage not
to exceed
capacity

20.—(1) Subject to subsections (2) and (3), no grain elevator operator shall receive for storage farm produce that will cause the operator to exceed the storage capacity of the elevator as indicated on his application for a licence.

Contract
for storage
in another
elevator

(2) A grain elevator operator may under contract for storage facilities with another grain elevator operator licensed under this Act or any Act of the Parliament of Canada store therein farm produce received for storage at his elevator. R.S.O. 1980, c. 191, s. 20, *amended*.

Storage in
additional
facilities

(3) Where a grain elevator operator arranges for additional storage facilities as provided for in subsection (2), he shall obtain weigh tickets and a grain storage receipt for farm produce stored in the additional facilities and shall keep on file copies of all such weigh tickets and grain storage receipts.

Storage on
unlicensed
premises

(4) A grain elevator operator may with the written consent of the chief inspector store farm produce on unlicensed premises on such conditions as the chief inspector determines. *New*.

Farm
produce
in storage
to
correspond
to receipts

21. Every grain elevator operator shall have at all times in his grain elevator or in storage facilities arranged under subsection 20 (2) or (4) such amounts of farm produce of each kind and grade as will at least equal the total amounts of outstanding grain storage receipts and weigh tickets issued by him. R.S.O. 1980, c. 191, s. 21.

Farm
produce
not subject
to lien, etc.

22. Unless it is agreed in writing to the contrary, farm produce stored in a grain elevator is not subject to any lien, charge or set-off other than for charges related to the storage and handling of the farm produce, including storage charges, elevation charges, conditioning charges, transportation charges and advance payments respecting the farm produce. R.S.O. 1980, c. 191, s. 4, *amended*.

R.S.O. 1980,
c. 528 and
R.S.O. 1980,
c. 150, s. 2,
not to apply

23. The *Warehouse Receipts Act* and section 2 of the *Factors Act* do not apply to farm produce in the possession of a grain elevator operator for storage or to a document of title thereto. R.S.O. 1980, c. 191, s. 5, *amended*.

Powers
of chief
inspector

24. Where the chief inspector believes that it is necessary for the protection of the interests of the owners of farm pro-

duce, and in particular, and without limiting the generality of the foregoing, the chief inspector believes that,

- (a) a grain elevator operator has failed to comply with any provision of this Act or the regulations;
- (b) a grain elevator operator is insolvent or is in receivership or is about to become insolvent or enter into receivership;
- (c) a grain elevator operator has abandoned an elevator; or
- (d) a grain elevator operator is in contravention of section 21,

the chief inspector may,

- (e) order the operation of a grain elevator to cease until such time as the actual amount of farm produce in storage can be ascertained and, for such purpose, may cause any storage bins to be sealed;
- (f) seize the farm produce wherever it is located or such quantity thereof as is necessary to protect the interests of the owner of the stored farm produce;
- (g) remove the farm produce seized under clause (f) from a grain elevator and arrange for its storage in another licensed grain elevator and shall obtain grain storage receipts from the operator thereof in the name of the owners of the farm produce;
- (h) distribute the stored farm produce seized on a *pro rata* basis to the owners;
- (i) sell the farm produce seized or a sufficient quantity thereof to protect the interests of the owners of the farm produce and distribute the proceeds of the sale of the farm produce *pro rata* among the owners thereof; and
- (j) insure the farm produce with an insurer licensed under the *Insurance Act* as trustee for the owners of the farm produce. *New.*

R.S.O. 1980,
c. 218

25. Every person who,

Offence

- (a) knowingly furnishes false information in any application under this Act or in any statement to be furnished under this Act or the regulations; or
- (b) contravenes any provision of this Act or the regulations, or any order of the chief inspector under clause 24 (e) or breaks or removes any seal applied to a storage bin under clause 24 (e),

is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for a first offence and to a fine of not more than \$25,000 or to a term of imprisonment of not more than one year for any subsequent offence. R.S.O. 1980, c. 191, s. 18, *amended*.

Regulations

26. The Lieutenant Governor in Council may make regulations,

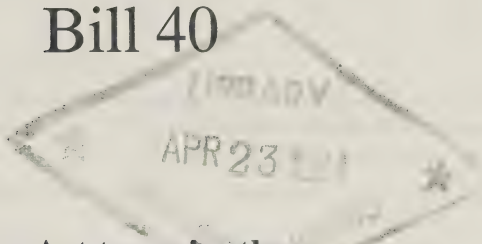
- (a) providing for the manner of issuing licences and prescribing their duration and the fees payable therefor;
- (b) prescribing the terms and conditions on which licences are issued;
- (c) prescribing grounds for refusal to renew and for suspension or revocation of licences in addition to the grounds mentioned in section 9;
- (d) prescribing the information that shall be shown on a grain storage receipt and on a weigh ticket;
- (e) prescribing the form, terms and conditions of an agreement to sell;
- (f) prescribing forms and providing for their use;
- (g) prescribing services or acts that may be performed at any time by the chief inspector to protect the farm produce or deal with the proceeds from the sale of any farm produce delivered for storage to a grain elevator;
- (h) prescribing the time and manner in which payment for farm produce sold shall be made;
- (i) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1980, c. 191, s. 23, *amended*.

27. The *Grain Elevator Storage Act*, being chapter 191 of the Revised Statutes of Ontario, 1980, is repealed. Repeal

28. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

29. The short title of this Act is the *Grain Elevator Storage Act*, 1983. Short title

Bill 40



An Act to revise the Grain Elevator Storage Act

The Hon. D. R. Timbrell
Minister of Agriculture and Food

<i>1st Reading</i>	May 13th, 1983
<i>2nd Reading</i>	June 21st, 1983
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The purpose of the Bill is to revise and update the *Grain Elevator Storage Act* to provide additional protection for persons storing farm produce in a grain elevator by,

- (a) revising procedures for accounting for grain in storage (sections 16 and 17);
- (b) revising the provisions of the present Act respecting insurance on grain in storage (section 19);
- (c) dealing with agreements to sell grain in storage, payment for grain sold and the matter of title to grain in storage (sections 15 and 17);
- (d) enlarging the powers of the chief inspector (subsection 15 (4) and section 24).

The licensing provisions of the present Act are also revised and updated (sections 3-12).

The present offence section is enlarged and the maximum fine for a contravention of the Act is increased (section 25).

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c. 270
- (c) “chief inspector” means the chief inspector appointed under this Act;
- (d) “farm produce” means beans, corn, grain, grass seeds and oil seeds and all kinds thereof produced in Ontario;
- (e) “grain elevator” means any building, container, structure or receptacle in which farm produce is received for storage, but does not include,
 - (i) premises where a producer receives or stores farm produce as farm feed for his own live stock or poultry,
 - (ii) premises where a producer stores and sells farm produce actually produced by that producer, or
 - (iii) premises where a terminal, transfer or processor grain elevator is licensed under any Act of the Parliament of Canada;

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- (l) "weigh ticket" means a receipt as prescribed by the regulations that is to be issued by a grain elevator operator or his employee to the owner of farm produce or his agent. R.S.O. 1980, c. 191, s. 1, *amended*.

Appointment
of chief
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inspectors

2.—(1) The Minister may appoint a chief inspector and such other inspectors as he considers necessary to enforce this Act and the regulations.

Certificate
of
appointment

(2) The production by an inspector of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of his appointment without further proof of the signature and authority of the Minister.

Powers of
inspector

(3) Subject to subsections (4), (5), (6) and (7), an inspector may, for the purpose of carrying out his duties under this Act, upon production of a certificate of his appointment,

- (a) enter any grain elevator including any building used in connection therewith that he believes on reasonable and probable grounds are used by a grain elevator operator and inspect such grain elevator or building and any grain stored and any books, records or documents pertaining thereto; and

- (b) demand the production or furnishing by the owner or custodian thereof of any books, records, documents or extracts therefrom relating to grain stored by a grain elevator operator.

(4) Except under the authority of a warrant under section 142 of the *Provincial Offences Act*, an inspector shall not enter any part of a dwelling without the consent of the occupant.

Entry of dwelling
R.S.O. 1980,
c. 400

(5) An inspector shall exercise his powers under subsection (3) at all reasonable times, but nothing in this section affects the issuance and execution of a warrant under section 142 of the *Provincial Offences Act*.

When powers
to be
exercised

(6) Where an inspector demands the production or furnishing of books, records or documents or extracts therefrom, the person having custody thereof shall produce or furnish them immediately to the inspector, and the inspector may remove and detain them for the purpose of making, or causing to be made, one or more copies thereof if such copies are made with reasonable dispatch, and the inspector shall forthwith thereafter return them to the person who produced or furnished them.

Production of
records, etc.

(7) Where a copy of a book, record, document or extract has been made under subsection (6), a copy purporting to be certified by the inspector to be a copy made under subsection (6) is admissible in evidence and has the same probative force as the original document would have if it had been proven in the ordinary way.

Certification
of copy

(8) No person shall hinder or obstruct an inspector in the course of his duties or furnish him with false information or refuse to furnish him with information. R.S.O. 1980, c. 191, s. 6.

Obstruction
of inspector

3.—(1) No person shall receive or offer to receive farm produce for storage at a grain elevator unless he is the holder of a licence as a grain elevator operator issued by the chief inspector in respect of the grain elevator. R.S.O. 1980, c. 191, s. 7 (1).

Licences

(2) A person shall make a separate application and obtain a separate licence for each different location on which he operates a grain elevator.

Separate
application
for each
location

(3) A licence may be transferred, subject to the approval of the chief inspector and on such terms and conditions as he may impose, on the application of the transferee. *New.*

Licence
may be
transferred

Application
for licence

4. An application for a grain elevator operator's licence shall be made by the applicant on forms supplied by the chief inspector and the application shall require that the applicant,

- (a) produce a current financial statement; and
- (b) disclose,
 - (i) the name and location of the bank currently servicing the grain elevator storage business of the applicant,
 - (ii) the location, capacity and ownership of each grain elevator,
 - (iii) the type and kind of farm produce to be received or stored in each elevator,
 - (iv) the names and signatures of all persons authorized to sign a grain storage receipt or an agreement to sell for farm produce received or stored at the grain elevator, and
 - (v) any other additional information in relation to the operation of the grain elevator that the chief inspector may require. *New.*

Issue of
licence

5.—(1) The chief inspector shall issue a licence as a grain elevator operator to a person who makes an application therefor in accordance with this Act and the regulations and pays the prescribed fee, except where,

- (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to carry on business as a grain elevator operator;
- (b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors affords reasonable grounds for belief that the business will not be carried on in accordance with the law or with integrity and honesty;
- (c) the applicant does not possess or will not have available all premises, facilities and equipment necessary to carry on the business in accordance with this Act and the regulations;
- (d) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations;

(e) the applicant was previously the holder of a licence and,

(i) such licence was revoked, or

(ii) the applicant or, where the applicant is a corporation, any officer, servant or director thereof or any person who will be in any way associated with the applicant in connection with the business was convicted of an offence,

under this Act, and the grounds for such revocation or conviction warrant a refusal to issue the licence; or

(f) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business. R.S.O. 1980, c. 191, s. 7 (2), *amended*.

(2) A licence issued under subsection (1) may be made subject to such terms and conditions as are prescribed in the licence or by the regulations. *New*.

Terms and conditions

6. The chief inspector may issue a temporary licence to an applicant on such terms and conditions as for such length of time as the chief inspector considers proper where he is of the opinion that,

Temporary licence

(a) the applicant requires only a temporary licence;

(b) conditions should be imposed on an applicant that must be fulfilled prior to a licence being issued; or

(c) the circumstances or the information provided by the applicant do not justify the issuance of a licence. *New*.

7.—(1) Subject to section 10, the chief inspector may at any time review a licence on his own initiative and attach such further terms and conditions as he considers proper to give effect to the purposes of this Act.

Review of licence

(2) The chief inspector may, on the application of a licensee, remove any terms or conditions to which the licence was made subject under subsection (1) where there is a change or circumstances. *New*.

Removal of terms and conditions

8. Every licensee shall forthwith report in writing to the chief inspector where there has been a change,

Report of change

- (a) in the location of the banking facilities of the licensee;
- (b) in the nature or form of the ownership of the grain storage elevator in respect of which the licence has been issued;
- (c) in the control of the grain elevator or of the business operations thereof; and
- (d) in the persons authorized to sign a storage receipt or an agreement to sell. *New.*

Refusal
to issue
or approve
transfer of
licence

9.—(1) Subject to section 10, the chief inspector may refuse to issue or refuse to approve the transfer of a licence where, in the opinion of the chief inspector, the applicant is not entitled to a licence under the provisions of this Act and the regulations applicable to such refusal. *New.*

Refusal
to renew,
suspension
or revocation

(2) Subject to section 10, the chief inspector may refuse to renew or may suspend or revoke a licence issued under section 5 or 6 where,

- (a) any ground exists that would disentitle the applicant to the issuance of a licence under section 5;
- (b) the licensee is in contravention of a term or condition of his licence;
- (c) the licensee, or anyone under his control, has contravened any provision of this Act or the regulations or of any other law in force in Ontario that applies to the carrying on of the grain elevator storage business; or
- (d) any other ground for refusal to renew, suspension or revocation specified in the regulations exists. R.S.O. 1980, c. 191, s. 8 (1), *amended.*

Continuation
of licence
pending
renewal

(3) Where, within the time prescribed therefor, or if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and paid the prescribed fee and observed or carried out the provisions of the Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the chief inspector on his application for renewal. R.S.O. 1980, c. 191, s. 8 (2).

Notice of
proposal

10.—(1) Where the chief inspector proposes,

- (a) to refuse to issue a licence, to refuse to renew a licence or to refuse to approve the transfer of a licence;
- (b) to suspend or revoke a licence; or
- (c) to attach terms and conditions to a licence or to refuse to remove a term or condition of a licence under subsection 7 (2),

he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee affected.

(2) A notice under subsection (1) shall inform the applicant or licensee that he is entitled to a hearing by the chief inspector if he mails or delivers to the chief inspector, within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing by the chief inspector and he may so require such a hearing. *New.*

Notice of
entitlement
to hearing

(3) The notice under subsection (1) shall afford to the applicant or licensee a reasonable opportunity to show or achieve compliance before the hearing with all lawful requirements for the issuance or retention of the licence. R.S.O. 1980, c. 191, s. 9 (1), *amended.*

Opportunity
to comply

(4) An applicant or licensee who is a party to the hearing shall be afforded an opportunity to examine before the hearing any documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. R.S.O. 1980, c. 191, s. 9 (2), *amended.*

Examination
of
documentary
evidence

(5) Where an applicant or licensee does not require a hearing by the chief inspector in accordance with subsection (2), the chief inspector may carry out the proposal stated in his notice under subsection (1). *New.*

Powers of
chief
inspector
where no
hearing

11. Where the chief inspector has refused to issue, refused to approve a transfer of or refused to renew or has suspended or revoked a licence after a hearing, he may, at any time of his own motion or on the application of the person who was the applicant or licensee, vary or rescind his decision, but the chief inspector shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision after the rehearing as he considers proper under this Act and the regulations. R.S.O. 1980, c. 191, s. 10, *amended.*

Variation
of decision
by chief
inspector

12.—(1) Where the chief inspector refuses to issue, refuses to approve a transfer of, refuses to renew or suspends

Appeal to
Board

or revokes a licence, the applicant or licensee may, by written notice delivered to the chief inspector and filed with the Board within fifteen days after receipt of the decision of the chief inspector, appeal to the Board.

Extension
of time for
giving notice

(2) The Board may extend the time for giving notice by an appellant or licensee under subsection (1), either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Powers of
Board

(3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or revoked and may after the hearing confirm or alter the decision of the chief inspector or direct the chief inspector to do any act he is authorized to do under this Act and the regulations and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the chief inspector.

Effect of
decision
pending
notice of
appeal

(4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the chief inspector, unless the chief inspector otherwise directs, the decision of the chief inspector is effective until the appeal is disposed of. R.S.O. 1980, c. 191, s. 11.

Parties

13.—(1) The chief inspector, the appellant and such other persons as the Board may specify are parties to the proceedings before the Board under this Act.

Members
making
decision
not to
have taken
part in
investi-
gation, etc.

(2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an advisor independent from the parties and, in such case, the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording
of evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

(4) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. Findings of fact
R.S.O. 1980, c. 484

(5) No member of the Board shall participate in a decision of the Board after a hearing unless he was present throughout and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision. R.S.O. 1980, c. 191, s. 12 Only members present at hearing to participate in decision

14.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court. Appeal to Divisional Court

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Minister entitled to be heard

(3) The chairman of the Board shall file with the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board if it is not part of the Board's record, shall constitute the record in the appeal. Record to be filed in court

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the chief inspector to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the chief inspector or of the Board. Powers of court on appeal

(5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of. R.S.O. 1980, c. 191, s. 13. Effect of decision of Board pending appeal

15.—(1) All farm produce delivered to a grain elevator shall be deemed to be for storage and such delivery and storage shall not constitute a sale unless it is established to the contrary in writing. R.S.O. 1980, c. 191, s. 2 (1), *amended*. Delivery deemed to be for storage

(2) Notwithstanding any other Act, the property in and the title to farm produce stored in a grain elevator remains at all times in the owner of the farm produce. Title to remain in owner

(3) Every person who intends to take control of a grain elevator or the business operations of a grain elevator operator Notice to chief inspector

shall notify orally the office of the chief inspector of such intention and the location of the grain elevator prior to taking control of the grain elevator or business operations.

Chief
inspector
shall be
permitted
to enter

(4) Every person who has taken control of a grain elevator or the business operations of a grain elevator operator shall permit the chief inspector to enter the premises and ascertain the amount of farm produce that is stored on the premises and the chief inspector may authorize and direct the removal of any or all of such farm produce. *New.*

Weigh ticket

16.—(1) Where farm produce is delivered to a grain elevator, the owner of the farm produce or, where delivery is made by his agent, the agent, shall state whether the farm produce is for storage, is sold or is for any other specified use and the grain elevator operator or his employee shall so mark and issue to the owner or agent, as the case may be, a weigh ticket for each and every delivery.

Grain
storage
receipt

(2) Where a grain elevator operator or his employee issues weigh tickets in respect of farm produce delivered for storage, the grain elevator operator or his authorized representative shall issue a grain storage receipt within five days, if requested, but in no case later than thirty days, after the date of the first weigh ticket issued respecting the particular lot of farm produce delivered for storage.

Idem

(3) Where a grain storage receipt is issued, it supersedes and replaces all weigh tickets issued in respect of the particular lot of farm produce described in the grain storage receipt.

Not more
than
one grain
storage
receipt

(4) No person shall issue or receive more than one grain storage receipt in respect of the same lot of farm produce delivered.

Signing
of receipt

(5) No person shall sign a grain storage receipt on behalf of a grain elevator operator, except a person authorized by him.

Delivery
of receipt

(6) Where a grain elevator operator issues a grain storage receipt, he shall ensure that the receipt is forthwith delivered or forwarded to the owner of the farm produce. *New.*

Agreement
to sell

17.—(1) An agreement to sell shall be in the form prescribed by the regulations.

Property
in and title
to grain
produce

(2) Where farm produce is in storage and is subject to an agreement to sell, the property in and title to the farm produce remains in the owner thereof until the owner has received the price agreed upon by the owner and the grain elevator operator.

(3) Where the owner of farm produce in storage has sold the farm produce to the grain elevator operator or through the grain elevator operator as his agent to any other person, the grain elevator operator shall ensure that the owner receives payment as promptly and in such manner as is provided for in the regulations. Payment

(4) Notwithstanding anything in this Act, where the owner of farm produce in storage agrees to sell the farm produce on option, payment to the owner by the grain elevator operator on the day on which the farm produce is sold of such percentage of the market price on that day as is prescribed by the regulations is deemed to be due compensation for the purposes of clause 1 (k). *New.* Sale on option

18.—(1) No person shall issue a weigh ticket or grain storage receipt or sign an agreement to sell without making and keeping a complete record of all matters pertaining thereto. Records

(2) Every grain elevator operator shall keep copies of all weigh tickets issued by him or his employee in a separate account for each owner until such time as a grain storage receipt is issued that replaces the full amount of the weigh tickets held in a separate account for that owner. *New.* Weigh ticket

19.—(1) Every grain elevator operator shall insure and keep insured with an insurer licensed under the *Insurance Act* all farm produce in his grain elevator or stored by the grain elevator operator on unlicensed premises against loss or damage by fire, lightning, explosion, windstorm and hail to the full market value of the farm produce. R.S.O. 1980, c. 191, s. 18 (1), *amended.* Insurance
R.S.O. 1980,
c. 218

(2) Every contract of insurance obtained under subsection (1) shall provide that the proceeds of the contract are payable to the holders of grain storage receipts or weigh tickets for farm produce stored in the elevator as their interests may respectively appear in priority to any claim by the grain elevator operator or any person acting as assignee or representative of the grain elevator operator. Payment of proceeds

(3) Every grain elevator operator shall furnish to the chief inspector certified copies of the policies providing the insurance coverage referred to in subsection (1) forthwith after the coverage comes into force. *New.* Certified copies of policies to be furnished

(4) Every contract of insurance in which the coverage referred to in subsection (1) is included shall provide that payment thereunder shall not be made without the consent of the chief inspector. R.S.O. 1980, c. 191, s. 18 (2). Chief inspector's consent to payment

Notice to
chief
inspector

(5) Where any loss or damage referred to in subsection (1) occurs, the grain elevator operator shall so notify the chief inspector forthwith. *New.*

Statement
of value
of farm
produce

(6) Every grain elevator operator shall provide to the chief inspector in such form and at such times as the chief inspector requires a statement setting out the full market value of all of the farm produce currently in his grain elevator or stored by him on unlicensed premises. R.S.O. 1980, c. 195, s. 19, *amended.*

Storage not
to exceed
capacity

20.—(1) Subject to subsections (2) and (3), no grain elevator operator shall receive for storage farm produce that will cause the operator to exceed the storage capacity of the elevator as indicated on his application for a licence.

Contract
for storage
in another
elevator

(2) A grain elevator operator may under contract for storage facilities with another grain elevator operator licensed under this Act or any Act of the Parliament of Canada store therein farm produce received for storage at his elevator. R.S.O. 1980, c. 191, s. 20, *amended.*

Storage in
additional
facilities

(3) Where a grain elevator operator arranges for additional storage facilities as provided for in subsection (2), he shall obtain weigh tickets and a grain storage receipt for farm produce stored in the additional facilities and shall keep on file copies of all such weigh tickets and grain storage receipts.

Storage on
unlicensed
premises

(4) A grain elevator operator may with the written consent of the chief inspector store farm produce on unlicensed premises on such conditions as the chief inspector determines. *New.*

Farm
produce
in storage
to
correspond
to receipts

21. Every grain elevator operator shall have at all times in his grain elevator or in storage facilities arranged under subsection 20 (2) or (4) such amounts of farm produce of each kind and grade as will at least equal the total amounts of outstanding grain storage receipts and weigh tickets issued by him. R.S.O. 1980, c. 191, s. 21.

Farm
produce
not subject
to lien, etc.

22. Unless it is agreed in writing to the contrary, farm produce stored in a grain elevator is not subject to any lien, charge or set-off other than for charges related to the storage and handling of the farm produce, including storage charges, elevation charges, conditioning charges, transportation charges and advance payments respecting the farm produce. R.S.O. 1980, c. 191, s. 4, *amended.*

R.S.O. 1980,
c. 528 and
R.S.O. 1980,
c. 150, s. 2,
not to apply

23. The *Warehouse Receipts Act* and section 2 of the *Factors Act* do not apply to farm produce in the possession of

a grain elevator operator for storage or to a document of title thereto. R.S.O. 1980, c. 191, s. 5, *amended*.

24. Where the chief inspector believes that it is necessary for the protection of the interests of the owners of farm produce, and in particular, and without limiting the generality of the foregoing, the chief inspector believes that,

Powers
of chief
inspector

- (a) a grain elevator operator has failed to comply with any provision of this Act or the regulations;
- (b) a grain elevator operator is insolvent or is in receivership or is about to become insolvent or enter into receivership;
- (c) a grain elevator operator has abandoned an elevator; or
- (d) a grain elevator operator is in contravention of section 21,

the chief inspector may,

- (e) order the operation of a grain elevator to cease until such time as the actual amount of farm produce in storage can be ascertained and, for such purpose, may cause any storage bins to be sealed;
- (f) seize the farm produce wherever it is located or such quantity thereof as is necessary to protect the interests of the owners of the stored farm produce;
- (g) remove the farm produce seized under clause (f) from a grain elevator and arrange for its storage in another licensed grain elevator and shall obtain grain storage receipts from the operator thereof in the name of the owners of the farm produce;
- (h) distribute the stored farm produce seized on a *pro rata* basis to the owners;
- (i) sell the farm produce seized or a sufficient quantity thereof to protect the interests of the owners of the farm produce and distribute the proceeds of the sale of the farm produce *pro rata* among the owners thereof; and
- (j) insure the farm produce with an insurer licensed under the *Insurance Act* as trustee for the owners of the farm produce. *New.*

R.S.O. 1980,
c. 218

Offence

25. Every person who,

- (a) knowingly furnishes false information in any application under this Act or in any statement to be furnished under this Act or the regulations; or
- (b) contravenes any provision of this Act or the regulations, or any order of the chief inspector under clause 24 (e) or breaks or removes any seal applied to a storage bin under clause 24 (e),

is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for a first offence and to a fine of not more than \$25,000 or to a term of imprisonment of not more than one year for any subsequent offence. R.S.O. 1980, c. 191, s. 18, *amended*.

Regulations

26. The Lieutenant Governor in Council may make regulations,

- (a) providing for the manner of issuing licences and prescribing their duration and the fees payable therefor;
- (b) prescribing the terms and conditions on which licences are issued;
- (c) prescribing grounds for refusal to renew and for suspension or revocation of licences in addition to the grounds mentioned in section 9;
- (d) prescribing the information that shall be shown on a grain storage receipt and on a weigh ticket;
- (e) prescribing the form, terms and conditions of an agreement to sell;
- (f) prescribing forms and providing for their use;
- (g) prescribing services or acts that may be performed at any time by the chief inspector to protect the farm produce or deal with the proceeds from the sale of any farm produce delivered for storage to a grain elevator;
- (h) prescribing the time and manner in which payment for farm produce sold shall be made;
- (i) prescribing a percentage for the purposes of subsection 17 (4);

- (j) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1980, c. 191, s. 23, *amended*.

27. The *Grain Elevator Storage Act*, being chapter 191 of the Revised Statutes of Ontario, 1980, is repealed. Repeal

28. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

29. The short title of this Act is the *Grain Elevator Storage Act, 1983*. Short title

Bill 40

(Chapter 40
Statutes of Ontario, 1983)



An Act to revise the Grain Elevator Storage Act

The Hon. D. R. Timbrell
Minister of Agriculture and Food

<i>1st Reading</i>	May 13th, 1983
<i>2nd Reading</i>	June 21st, 1983
<i>3rd Reading</i>	June 21st, 1983
<i>Royal Assent</i>	June 21st, 1983

Bill 40

1983

**An Act to revise the
Grain Elevator Storage Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “agreement to sell” means a written agreement for the sale of farm produce that is stored or to be stored made between a grain elevator operator and an owner of farm produce;
- (b) “Board” means the Agricultural Licensing and Registration Review Board under the *Ministry of Agriculture and Food Act*; R.S.O. 1980.
c. 270
- (c) “chief inspector” means the chief inspector appointed under this Act;
- (d) “farm produce” means beans, corn, grain, grass seeds and oil seeds and all kinds thereof produced in Ontario;
- (e) “grain elevator” means any building, container, structure or receptacle in which farm produce is received for storage, but does not include,
 - (i) premises where a producer receives or stores farm produce as farm feed for his own live stock or poultry,
 - (ii) premises where a producer stores and sells farm produce actually produced by that producer, or
 - (iii) premises where a terminal, transfer or processor grain elevator is licensed under any Act of the Parliament of Canada;

- (f) "grain elevator operator" means a person who operates a grain elevator;
- (g) "grain storage receipt" means a receipt as prescribed by the regulations that is to be issued by a grain elevator operator or his authorized representative to the owner of farm produce;
- (h) "licence" means a licence under this Act;
- (i) "Minister" means the Minister of Agriculture and Food;
- (j) "regulations" means the regulations made under this Act;
- (k) "stored", when used with respect to farm produce, means placed in a grain elevator upon terms that the ownership shall remain in the owner of the farm produce until such time as the owner has sold the farm produce and has received due compensation or has removed the farm produce from the elevator, and "storage" has a corresponding meaning;
- (l) "weigh ticket" means a receipt as prescribed by the regulations that is to be issued by a grain elevator operator or his employee to the owner of farm produce or his agent. R.S.O. 1980, c. 191, s. 1, *amended*.

Appointment
of chief
inspector and
inspectors

2.—(1) The Minister may appoint a chief inspector and such other inspectors as he considers necessary to enforce this Act and the regulations.

Certificate
of
appointment

(2) The production by an inspector of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of his appointment without further proof of the signature and authority of the Minister.

Powers of
inspector

(3) Subject to subsections (4), (5), (6) and (7), an inspector may, for the purpose of carrying out his duties under this Act, upon production of a certificate of his appointment,

- (a) enter any grain elevator including any building used in connection therewith that he believes on reasonable and probable grounds are used by a grain elevator operator and inspect such grain elevator or building and any grain stored and any books, records or documents pertaining thereto; and

- (b) demand the production or furnishing by the owner or custodian thereof of any books, records, documents or extracts therefrom relating to grain stored by a grain elevator operator.

(4) Except under the authority of a warrant under section 142 of the *Provincial Offences Act*, an inspector shall not enter any part of a dwelling without the consent of the occupant.

Entry of dwelling
R.S.O. 1980, c. 400

(5) An inspector shall exercise his powers under subsection (3) at all reasonable times, but nothing in this section affects the issuance and execution of a warrant under section 142 of the *Provincial Offences Act*.

When powers to be exercised

(6) Where an inspector demands the production or furnishing of books, records or documents or extracts therefrom, the person having custody thereof shall produce or furnish them immediately to the inspector, and the inspector may remove and detain them for the purpose of making, or causing to be made, one or more copies thereof if such copies are made with reasonable dispatch, and the inspector shall forthwith thereafter return them to the person who produced or furnished them.

Production of records, etc.

(7) Where a copy of a book, record, document or extract has been made under subsection (6), a copy purporting to be certified by the inspector to be a copy made under subsection (6) is admissible in evidence and has the same probative force as the original document would have if it had been proven in the ordinary way.

Certification of copy

(8) No person shall hinder or obstruct an inspector in the course of his duties or furnish him with false information or refuse to furnish him with information. R.S.O. 1980, c. 191, s. 6.

Obstruction of inspector

3.—(1) No person shall receive or offer to receive farm produce for storage at a grain elevator unless he is the holder of a licence as a grain elevator operator issued by the chief inspector in respect of the grain elevator. R.S.O. 1980, c. 191, s. 7 (1).

Licences

(2) A person shall make a separate application and obtain a separate licence for each different location on which he operates a grain elevator.

Separate application for each location

(3) A licence may be transferred, subject to the approval of the chief inspector and on such terms and conditions as he may impose, on the application of the transferee. *New.*

Licence may be transferred

Application
for licence

4. An application for a grain elevator operator's licence shall be made by the applicant on forms supplied by the chief inspector and the application shall require that the applicant,

- (a) produce a current financial statement; and
- (b) disclose,
 - (i) the name and location of the bank currently servicing the grain elevator storage business of the applicant,
 - (ii) the location, capacity and ownership of each grain elevator,
 - (iii) the type and kind of farm produce to be received or stored in each elevator,
 - (iv) the names and signatures of all persons authorized to sign a grain storage receipt or an agreement to sell for farm produce received or stored at the grain elevator, and
 - (v) any other additional information in relation to the operation of the grain elevator that the chief inspector may require. *New.*

Issue of
licence

5.—(1) The chief inspector shall issue a licence as a grain elevator operator to a person who makes an application therefor in accordance with this Act and the regulations and pays the prescribed fee, except where,

- (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to carry on business as a grain elevator operator;
- (b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors affords reasonable grounds for belief that the business will not be carried on in accordance with the law or with integrity and honesty;
- (c) the applicant does not possess or will not have available all premises, facilities and equipment necessary to carry on the business in accordance with this Act and the regulations;
- (d) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations;

(e) the applicant was previously the holder of a licence and,

(i) such licence was revoked, or

(ii) the applicant or, where the applicant is a corporation, any officer, servant or director thereof or any person who will be in any way associated with the applicant in connection with the business was convicted of an offence,

under this Act, and the grounds for such revocation or conviction warrant a refusal to issue the licence; or

(f) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business. R.S.O. 1980, c. 191, s. 7 (2), *amended*.

(2) A licence issued under subsection (1) may be made subject to such terms and conditions as are prescribed in the licence or by the regulations. *New*. Terms and conditions

6. The chief inspector may issue a temporary licence to an applicant on such terms and conditions as for such length of time as the chief inspector considers proper where he is of the opinion that, Temporary licence

(a) the applicant requires only a temporary licence;

(b) conditions should be imposed on an applicant that must be fulfilled prior to a licence being issued; or

(c) the circumstances or the information provided by the applicant do not justify the issuance of a licence. *New*.

7.—(1) Subject to section 10, the chief inspector may at any time review a licence on his own initiative and attach such further terms and conditions as he considers proper to give effect to the purposes of this Act. Review of licence

(2) The chief inspector may, on the application of a licensee, remove any terms or conditions to which the licence was made subject under subsection (1) where there is a change or circumstances. *New*. Removal of terms and conditions

8. Every licensee shall forthwith report in writing to the chief inspector where there has been a change, Report of change

- (a) in the location of the banking facilities of the licensee;
- (b) in the nature or form of the ownership of the grain storage elevator in respect of which the licence has been issued;
- (c) in the control of the grain elevator or of the business operations thereof; and
- (d) in the persons authorized to sign a storage receipt or an agreement to sell. *New.*

Refusal
to issue
or approve
transfer of
licence

9.—(1) Subject to section 10, the chief inspector may refuse to issue or refuse to approve the transfer of a licence where, in the opinion of the chief inspector, the applicant is not entitled to a licence under the provisions of this Act and the regulations applicable to such refusal. *New.*

Refusal
to renew,
suspension
or revocation

(2) Subject to section 10, the chief inspector may refuse to renew or may suspend or revoke a licence issued under section 5 or 6 where,

- (a) any ground exists that would disentitle the applicant to the issuance of a licence under section 5;
- (b) the licensee is in contravention of a term or condition of his licence;
- (c) the licensee, or anyone under his control, has contravened any provision of this Act or the regulations or of any other law in force in Ontario that applies to the carrying on of the grain elevator storage business; or
- (d) any other ground for refusal to renew, suspension or revocation specified in the regulations exists. R.S.O. 1980, c. 191, s. 8 (1), *amended.*

Continuation
of licence
pending
renewal

(3) Where, within the time prescribed therefor, or if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and paid the prescribed fee and observed or carried out the provisions of the Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the chief inspector on his application for renewal. R.S.O. 1980, c. 191, s. 8 (2).

Notice of
proposal

10.—(1) Where the chief inspector proposes,

- (a) to refuse to issue a licence, to refuse to renew a licence or to refuse to approve the transfer of a licence;
- (b) to suspend or revoke a licence; or
- (c) to attach terms and conditions to a licence or to refuse to remove a term or condition of a licence under subsection 7 (2),

he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee affected.

(2) A notice under subsection (1) shall inform the applicant or licensee that he is entitled to a hearing by the chief inspector if he mails or delivers to the chief inspector, within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing by the chief inspector and he may so require such a hearing. *New.*

Notice of entitlement to hearing

(3) The notice under subsection (1) shall afford to the applicant or licensee a reasonable opportunity to show or achieve compliance before the hearing with all lawful requirements for the issuance or retention of the licence. R.S.O. 1980, c. 191, s. 9 (1), *amended.*

Opportunity to comply

(4) An applicant or licensee who is a party to the hearing shall be afforded an opportunity to examine before the hearing any documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. R.S.O. 1980, c. 191, s. 9 (2), *amended.*

Examination of documentary evidence

(5) Where an applicant or licensee does not require a hearing by the chief inspector in accordance with subsection (2), the chief inspector may carry out the proposal stated in his notice under subsection (1). *New.*

Powers of chief inspector where no hearing

11. Where the chief inspector has refused to issue, refused to approve a transfer of or refused to renew or has suspended or revoked a licence after a hearing, he may, at any time of his own motion or on the application of the person who was the applicant or licensee, vary or rescind his decision, but the chief inspector shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision after the rehearing as he considers proper under this Act and the regulations. R.S.O. 1980, c. 191, s. 10, *amended.*

Variation of decision by chief inspector

12.—(1) Where the chief inspector refuses to issue, refuses to approve a transfer of, refuses to renew or suspends

Appeal to Board

or revokes a licence, the applicant or licensee may, by written notice delivered to the chief inspector and filed with the Board within fifteen days after receipt of the decision of the chief inspector, appeal to the Board.

Extension
of time for
giving notice

(2) The Board may extend the time for giving notice by an appellant or licensee under subsection (1), either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Powers of
Board

(3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or revoked and may after the hearing confirm or alter the decision of the chief inspector or direct the chief inspector to do any act he is authorized to do under this Act and the regulations and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the chief inspector.

Effect of
decision
pending
notice of
appeal

(4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the chief inspector, unless the chief inspector otherwise directs, the decision of the chief inspector is effective until the appeal is disposed of. R.S.O. 1980, c. 191, s. 11.

Parties

13.—(1) The chief inspector, the appellant and such other persons as the Board may specify are parties to the proceedings before the Board under this Act.

Members
making
decision
not to
have taken
part in
investi-
gation, etc.

(2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an advisor independent from the parties and, in such case, the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording
of evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

(4) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. Findings of fact
R.S.O. 1980, c. 484

(5) No member of the Board shall participate in a decision of the Board after a hearing unless he was present throughout and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision. Only members present at hearing to participate in decision
R.S.O. 1980, c. 191, s. 12

14.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court. Appeal to Divisional Court

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Minister entitled to be heard

(3) The chairman of the Board shall file with the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board if it is not part of the Board's record, shall constitute the record in the appeal. Record to be filed in court

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the chief inspector to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the chief inspector or of the Board. Powers of court on appeal

(5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of. Effect of decision of Board pending appeal
R.S.O. 1980, c. 191, s. 13.

15.—(1) All farm produce delivered to a grain elevator shall be deemed to be for storage and such delivery and storage shall not constitute a sale unless it is established to the contrary in writing. Delivery deemed to be for storage
R.S.O. 1980, c. 191, s. 2 (1), amended.

(2) Notwithstanding any other Act, the property in and the title to farm produce stored in a grain elevator remains at all times in the owner of the farm produce. Title to remain in owner

(3) Every person who intends to take control of a grain elevator or the business operations of a grain elevator operator Notice to chief inspector

shall notify orally the office of the chief inspector of such intention and the location of the grain elevator prior to taking control of the grain elevator or business operations.

Chief
inspector
shall be
permitted
to enter

(4) Every person who has taken control of a grain elevator or the business operations of a grain elevator operator shall permit the chief inspector to enter the premises and ascertain the amount of farm produce that is stored on the premises and the chief inspector may authorize and direct the removal of any or all of such farm produce. *New.*

Weigh ticket

16.—(1) Where farm produce is delivered to a grain elevator, the owner of the farm produce or, where delivery is made by his agent, the agent, shall state whether the farm produce is for storage, is sold or is for any other specified use and the grain elevator operator or his employee shall so mark and issue to the owner or agent, as the case may be, a weigh ticket for each and every delivery.

Grain
storage
receipt

(2) Where a grain elevator operator or his employee issues weigh tickets in respect of farm produce delivered for storage, the grain elevator operator or his authorized representative shall issue a grain storage receipt within five days, if requested, but in no case later than thirty days, after the date of the first weigh ticket issued respecting the particular lot of farm produce delivered for storage.

Idem

(3) Where a grain storage receipt is issued, it supersedes and replaces all weigh tickets issued in respect of the particular lot of farm produce described in the grain storage receipt.

Not more
than
one grain
storage
receipt

(4) No person shall issue or receive more than one grain storage receipt in respect of the same lot of farm produce delivered.

Signing
of receipt

(5) No person shall sign a grain storage receipt on behalf of a grain elevator operator, except a person authorized by him.

Delivery
of receipt

(6) Where a grain elevator operator issues a grain storage receipt, he shall ensure that the receipt is forthwith delivered or forwarded to the owner of the farm produce. *New.*

Agreement
to sell

17.—(1) An agreement to sell shall be in the form prescribed by the regulations.

Property
in and title
to grain
produce

(2) Where farm produce is in storage and is subject to an agreement to sell, the property in and title to the farm produce remains in the owner thereof until the owner has received the price agreed upon by the owner and the grain elevator operator.

(3) Where the owner of farm produce in storage has sold the farm produce to the grain elevator operator or through the grain elevator operator as his agent to any other person, the grain elevator operator shall ensure that the owner receives payment as promptly and in such manner as is provided for in the regulations. Payment

(4) Notwithstanding anything in this Act, where the owner of farm produce in storage agrees to sell the farm produce on option, payment to the owner by the grain elevator operator on the day on which the farm produce is sold of such percentage of the market price on that day as is prescribed by the regulations is deemed to be due compensation for the purposes of clause 1 (k). *New.* Sale on option

18.—(1) No person shall issue a weigh ticket or grain storage receipt or sign an agreement to sell without making and keeping a complete record of all matters pertaining thereto. Records

(2) Every grain elevator operator shall keep copies of all weigh tickets issued by him or his employee in a separate account for each owner until such time as a grain storage receipt is issued that replaces the full amount of the weigh tickets held in a separate account for that owner. *New.* Weigh ticket

19.—(1) Every grain elevator operator shall insure and keep insured with an insurer licensed under the *Insurance Act* all farm produce in his grain elevator or stored by the grain elevator operator on unlicensed premises against loss or damage by fire, lightning, explosion, windstorm and hail to the full market value of the farm produce. R.S.O. 1980, c. 191, s. 18 (1), *amended.* Insurance
R.S.O. 1980,
c. 218

(2) Every contract of insurance obtained under subsection (1) shall provide that the proceeds of the contract are payable to the holders of grain storage receipts or weigh tickets for farm produce stored in the elevator as their interests may respectively appear in priority to any claim by the grain elevator operator or any person acting as assignee or representative of the grain elevator operator. Payment of proceeds

(3) Every grain elevator operator shall furnish to the chief inspector certified copies of the policies providing the insurance coverage referred to in subsection (1) forthwith after the coverage comes into force. *New.* Certified copies of policies to be furnished

(4) Every contract of insurance in which the coverage referred to in subsection (1) is included shall provide that payment thereunder shall not be made without the consent of the chief inspector. R.S.O. 1980, c. 191, s. 18 (2). Chief inspector's consent to payment

Notice to
chief
inspector

(5) Where any loss or damage referred to in subsection (1) occurs, the grain elevator operator shall so notify the chief inspector forthwith. *New.*

Statement
of value
of farm
produce

(6) Every grain elevator operator shall provide to the chief inspector in such form and at such times as the chief inspector requires a statement setting out the full market value of all of the farm produce currently in his grain elevator or stored by him on unlicensed premises. R.S.O. 1980, c. 195, s. 19, *amended.*

Storage not
to exceed
capacity

20.—(1) Subject to subsections (2) and (3), no grain elevator operator shall receive for storage farm produce that will cause the operator to exceed the storage capacity of the elevator as indicated on his application for a licence.

Contract
for storage
in another
elevator

(2) A grain elevator operator may under contract for storage facilities with another grain elevator operator licensed under this Act or any Act of the Parliament of Canada store therein farm produce received for storage at his elevator. R.S.O. 1980, c. 191, s. 20, *amended.*

Storage in
additional
facilities

(3) Where a grain elevator operator arranges for additional storage facilities as provided for in subsection (2), he shall obtain weigh tickets and a grain storage receipt for farm produce stored in the additional facilities and shall keep on file copies of all such weigh tickets and grain storage receipts.

Storage on
unlicensed
premises

(4) A grain elevator operator may with the written consent of the chief inspector store farm produce on unlicensed premises on such conditions as the chief inspector determines. *New.*

Farm
produce
in storage
to
correspond
to receipts

21. Every grain elevator operator shall have at all times in his grain elevator or in storage facilities arranged under subsection 20 (2) or (4) such amounts of farm produce of each kind and grade as will at least equal the total amounts of outstanding grain storage receipts and weigh tickets issued by him. R.S.O. 1980, c. 191, s. 21.

Farm
produce
not subject
to lien, etc.

22. Unless it is agreed in writing to the contrary, farm produce stored in a grain elevator is not subject to any lien, charge or set-off other than for charges related to the storage and handling of the farm produce, including storage charges, elevation charges, conditioning charges, transportation charges and advance payments respecting the farm produce. R.S.O. 1980, c. 191, s. 4, *amended.*

R.S.O. 1980,
c. 528 and
R.S.O. 1980,
c. 150, s. 2,
not to apply

23. The *Warehouse Receipts Act* and section 2 of the *Factors Act* do not apply to farm produce in the possession of

a grain elevator operator for storage or to a document of title thereto. R.S.O. 1980, c. 191, s. 5, *amended*.

24. Where the chief inspector believes that it is necessary for the protection of the interests of the owners of farm produce, and in particular, and without limiting the generality of the foregoing, the chief inspector believes that,

Powers
of chief
inspector

- (a) a grain elevator operator has failed to comply with any provision of this Act or the regulations;
- (b) a grain elevator operator is insolvent or is in receivership or is about to become insolvent or enter into receivership;
- (c) a grain elevator operator has abandoned an elevator; or
- (d) a grain elevator operator is in contravention of section 21,

the chief inspector may,

- (e) order the operation of a grain elevator to cease until such time as the actual amount of farm produce in storage can be ascertained and, for such purpose, may cause any storage bins to be sealed;
- (f) seize the farm produce wherever it is located or such quantity thereof as is necessary to protect the interests of the owners of the stored farm produce;
- (g) remove the farm produce seized under clause (f) from a grain elevator and arrange for its storage in another licensed grain elevator and shall obtain grain storage receipts from the operator thereof in the name of the owners of the farm produce;
- (h) distribute the stored farm produce seized on a *pro rata* basis to the owners;
- (i) sell the farm produce seized or a sufficient quantity thereof to protect the interests of the owners of the farm produce and distribute the proceeds of the sale of the farm produce *pro rata* among the owners thereof; and
- (j) insure the farm produce with an insurer licensed under the *Insurance Act* as trustee for the owners of the farm produce. *New.*

R.S.O. 1980,
c. 218

Offence

25. Every person who,

- (a) knowingly furnishes false information in any application under this Act or in any statement to be furnished under this Act or the regulations; or
- (b) contravenes any provision of this Act or the regulations, or any order of the chief inspector under clause 24 (e) or breaks or removes any seal applied to a storage bin under clause 24 (e),

is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for a first offence and to a fine of not more than \$25,000 or to a term of imprisonment of not more than one year for any subsequent offence. R.S.O. 1980, c. 191, s. 18, *amended*.

Regulations

26. The Lieutenant Governor in Council may make regulations,

- (a) providing for the manner of issuing licences and prescribing their duration and the fees payable therefor;
- (b) prescribing the terms and conditions on which licences are issued;
- (c) prescribing grounds for refusal to renew and for suspension or revocation of licences in addition to the grounds mentioned in section 9;
- (d) prescribing the information that shall be shown on a grain storage receipt and on a weigh ticket;
- (e) prescribing the form, terms and conditions of an agreement to sell;
- (f) prescribing forms and providing for their use;
- (g) prescribing services or acts that may be performed at any time by the chief inspector to protect the farm produce or deal with the proceeds from the sale of any farm produce delivered for storage to a grain elevator;
- (h) prescribing the time and manner in which payment for farm produce sold shall be made;
- (i) prescribing a percentage for the purposes of subsection 17 (4);

- (j) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1980, c. 191, s. 23, *amended*.

27. The *Grain Elevator Storage Act*, being chapter 191 of the Revised Statutes of Ontario, 1980, is repealed. Repeal

28. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

29. The short title of this Act is the *Grain Elevator Storage Act, 1983*. Short title



Bill 41

**An Act to regulate the
Granting of Degrees**

The Hon. B. Stephenson
*Minister of Education and
Minister of Colleges and
Universities*

1st Reading May 13th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill provides for the regulation of degree granting institutions from other jurisdictions that wish to operate in Ontario. It also requires that future Ontario universities and degree granting institutions only be incorporated by an Act of the Assembly and controls the use of the word "university" or any derivation or abbreviation thereof.

Bill 41**1983****An Act to regulate the
Granting of Degrees**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,Interpre-
tation

- (a) “Minister” means the Minister of Colleges and Universities;
- (b) “person” includes a sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization or trust;
- (c) “regulations” means the regulations made under this Act.

2. No person shall directly or indirectly,Authority
to grant a
degree, etc.

- (a) grant a degree;
- (b) provide a program of post-secondary study leading to a degree to be conferred by a person in or outside Ontario;
- (c) advertise a program of post-secondary study offered in Ontario leading to a degree to be conferred by a person in or outside Ontario; or
- (d) sell, offer for sale, or provide by agreement for a fee, reward or other remuneration, a diploma, certificate, document or other material that is, or indicates or implies the granting or conferring of, a degree,

unless the person,

- (e) is by an Act of the Assembly authorized to grant the degree; or

- (f) is a degree granting institution established outside Ontario and has the written consent of the Minister.

Authority
to establish
a university,
etc.

3. No person shall directly or indirectly,

- (a) operate or maintain a university;
- (b) use or be known by a name of a university or any derivation or abbreviation thereof;
- (c) hold himself out to be a university;
- (d) make use of, in any advertising relating to an educational institution in Ontario, the word university or any derivation or abbreviation thereof,

unless the person,

- (e) is by an Act of the Assembly authorized to operate or maintain the university; or
- (f) is a university established outside Ontario and has the written consent of the Minister.

Consent
of
Minister

4.—(1) The Minister may give a written consent to,

- (a) a degree-granting institution established outside Ontario to enable it to do any one or more of the things mentioned in clauses 2 (a) to (d); or
- (b) a university established outside Ontario to enable it to do any one or more of the things mentioned in clauses 3 (a) to (d).

Terms and
conditions
of consent

(2) The Minister may attach such terms and conditions to a consent given under subsection (1) as the Minister considers proper to give effect to the intent of this Act.

Inspection

5.—(1) Where the Minister has reasonable and probable grounds to believe that a person has contravened any of the provisions of this Act or the regulations, an inspector designated by the Minister in writing may at any reasonable time enter upon the business premises of such person, to make an inspection for the purpose of determining whether or not the person is in contravention of this Act or the regulations.

Powers on
inspection

(2) Upon an inspection under subsection (1), the inspector,

- (a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspond-

ence and records of the person being inspected that are relevant for the purposes of the inspection; and

- (b) may, upon giving a receipt therefor, remove any material referred to in clause (a) that relates to the purpose of the inspection for the purpose of making a copy thereof in which case the inspector shall make a copy with dispatch and return the material promptly thereafter to the person being inspected,

and no person shall obstruct the inspector in his inspection, withhold or destroy, conceal or refuse to furnish any information or thing required by the inspector for the purposes of the inspection.

(3) A copy made as provided in subsection (2) and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original.

Admissibility of copies

6.—(1) Every person who,

Offence

- (a) knowingly furnishes false information in any application under this Act or the regulations or in any statement or return required to be furnished under this Act or the regulations; or
- (b) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing of false information or contravention by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

(2) Where the person convicted of an offence under subsection (1) is a corporation, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

Idem

7. A written statement as to,

Certificate of Minister as evidence

- (a) the consent or non-consent given to any person by the Minister; or
- (b) any other matter pertaining to such consent or non-consent,

purported to be certified by the Minister, is, without proof of the office or signature of the Minister, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Regulations

8. The Lieutenant Governor in Council may make regulations,

- (a) governing applications for consent to engage or perform any act referred to in section 2 or 3;
- (b) providing for the expiration and renewal of consents;
- (c) prescribing information that must be contained in an application or form and requiring any such information to be verified by affidavit;
- (d) prescribing the terms and conditions upon which a consent of the Minister may be granted under this Act;
- (e) exempting any person or class of persons from any requirement of this Act or the regulations;
- (f) prescribing forms and providing for their use.

Commence-
ment

9. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

10. The short title of this Act is the *Degree Granting Act, 1983*.



Bill 41

(Chapter 36
Statutes of Ontario, 1983)

**An Act to regulate the
Granting of Degrees**

The Hon. B. Stephenson
*Minister of Education and
Minister of Colleges and
Universities*

<i>1st Reading</i>	May 13th, 1983
<i>2nd Reading</i>	June 6th, 1983
<i>3rd Reading</i>	June 9th, 1983
<i>Royal Assent</i>	June 9th, 1983

Bill 41**1983****An Act to regulate the
Granting of Degrees**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,Interpre-
tation

- (a) “Minister” means the Minister of Colleges and Universities;
- (b) “person” includes a sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization or trust;
- (c) “regulations” means the regulations made under this Act.

2. No person shall directly or indirectly,Authority
to grant a
degree, etc.

- (a) grant a degree;
- (b) provide a program of post-secondary study leading to a degree to be conferred by a person in or outside Ontario;
- (c) advertise a program of post-secondary study offered in Ontario leading to a degree to be conferred by a person in or outside Ontario; or
- (d) sell, offer for sale, or provide by agreement for a fee, reward or other remuneration, a diploma, certificate, document or other material that is, or indicates or implies the granting or conferring of, a degree,

unless the person,

- (e) is by an Act of the Assembly authorized to grant the degree; or

- (f) is a degree granting institution established outside Ontario and has the written consent of the Minister.

Authority
to establish
a university,
etc.

3. No person shall directly or indirectly,

- (a) operate or maintain a university;
- (b) use or be known by a name of a university or any derivation or abbreviation thereof;
- (c) hold himself out to be a university;
- (d) make use of, in any advertising relating to an educational institution in Ontario, the word university or any derivation or abbreviation thereof,

unless the person,

- (e) is by an Act of the Assembly authorized to operate or maintain the university; or
- (f) is a university established outside Ontario and has the written consent of the Minister.

Consent
of
Minister

4.—(1) The Minister may give a written consent to,

- (a) a degree-granting institution established outside Ontario to enable it to do any one or more of the things mentioned in clauses 2 (a) to (d); or
- (b) a university established outside Ontario to enable it to do any one or more of the things mentioned in clauses 3 (a) to (d).

Terms and
conditions
of consent

(2) The Minister may attach such terms and conditions to a consent given under subsection (1) as the Minister considers proper to give effect to the intent of this Act.

Inspection

5.—(1) Where the Minister has reasonable and probable grounds to believe that a person has contravened any of the provisions of this Act or the regulations, an inspector designated by the Minister in writing may at any reasonable time enter upon the business premises of such person, to make an inspection for the purpose of determining whether or not the person is in contravention of this Act or the regulations.

Powers on
inspection

(2) Upon an inspection under subsection (1), the inspector,

- (a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspond-

ence and records of the person being inspected that are relevant for the purposes of the inspection; and

- (b) may, upon giving a receipt therefor, remove any material referred to in clause (a) that relates to the purpose of the inspection for the purpose of making a copy thereof in which case the inspector shall make a copy with dispatch and return the material promptly thereafter to the person being inspected,

and no person shall obstruct the inspector in his inspection, withhold or destroy, conceal or refuse to furnish any information or thing required by the inspector for the purposes of the inspection.

(3) A copy made as provided in subsection (2) and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original.

Admissibility of copies

6.—(1) Every person who,

Offence

- (a) knowingly furnishes false information in any application under this Act or the regulations or in any statement or return required to be furnished under this Act or the regulations; or
- (b) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing of false information or contravention by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

(2) Where the person convicted of an offence under subsection (1) is a corporation, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

Idem

7. A written statement as to,

Certificate of Minister as evidence

- (a) the consent or non-consent given to any person by the Minister; or
- (b) any other matter pertaining to such consent or non-consent,

purported to be certified by the Minister, is, without proof of the office or signature of the Minister, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Regulations

8. The Lieutenant Governor in Council may make regulations,

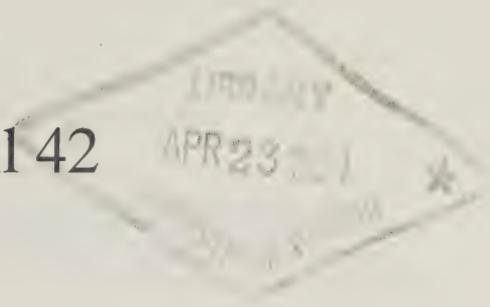
- (a) governing applications for consent to engage or perform any act referred to in section 2 or 3;
- (b) providing for the expiration and renewal of consents;
- (c) prescribing information that must be contained in an application or form and requiring any such information to be verified by affidavit;
- (d) prescribing the terms and conditions upon which a consent of the Minister may be granted under this Act;
- (e) exempting any person or class of persons from any requirement of this Act or the regulations;
- (f) prescribing forms and providing for their use.

Commence-
ment

9. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

10. The short title of this Act is the *Degree Granting Act, 1983*.



Bill 42

**An Act to amend the
Ministry of Colleges and Universities Act**

The Hon. B. Stephenson

Minister of Education and Minister of Colleges and Universities

1st Reading May 16th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill requires that no university incur a cumulative deficit in its operating fund in any fiscal year in excess of 2 per cent of its revenue for the year.

The Bill also requires that universities make financial reports to the Minister in such form, containing such information and by such dates as the Minister may require.

The Bill also provides for the appointment of one or more persons to investigate and report on the financial situation of a university.

The Lieutenant Governor in Council is authorized to appoint a university supervisor for a university where, having regard to the report of the investigation, the Lieutenant Governor in Council is of the opinion that the financial situation of the university is such that action should be taken to improve it.

The university supervisor is required to provide advice and guidance to the governing body and the chief executive officer of the university.

The university supervisor may request the governing body or the chief executive officer of the university to do any act that they have authority to do, and may do the act on their behalf if they fail to comply with his request.

Provision is made for reports by a university supervisor to the Minister.

The appointment of a university supervisor continues in force until terminated by order of the Lieutenant Governor in Council.

Investigators and university supervisors are protected against personal liability.

Bill 42

1983

An Act to amend the Ministry of Colleges and Universities Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Ministry of Colleges and Universities Act*, being chapter 272 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part: Part II,
(ss. 11-15),
enacted

PART II

11.—(1) In this Part,

Interpre-
tation

- (a) “operating fund” means a fund that is a self-balancing accounting entity that accounts for the cost of instruction, academic support services, administration, plant maintenance and other general expenses of a university and that is financed from operating revenue;
- (b) “operating revenue” means the revenue from tuition and other related fees, operating grants and other general income;
- (c) “university” means a university or post-secondary educational institution listed in the Schedule.

(2) No university shall incur in any fiscal year a cumulative deficit in its operating fund that is in excess of 2 per cent of its operating revenue for the year. No deficit

(3) A university shall make such financial reports to the Minister, in such form, containing such information and by such dates as the Minister may require. Financial
reports

12.—(1) Where the Lieutenant Governor in Council, having regard to a financial report referred to in subsection 11 (3) and any other financial information that may be available, is Investi-
gators

of the opinion that a university is in contravention of subsection 11 (2), he may appoint an investigator for the university to investigate and report on the financial situation of the university.

Powers of
investigator

(2) An investigator may,

- (a) examine and audit all the books, accounts and records of the university; and
- (b) investigate and require financial information from any person in possession of information in respect of the university,

at any time, but only for the purpose of this Part.

Obstruction

(3) No person shall obstruct an investigator or withhold or destroy, conceal or refuse to furnish any information or thing required by the investigator for the purposes of the investigation.

Report

(4) The Minister shall cause a copy of the report of an investigation to be delivered to the chairman of the governing body of the university.

University
supervisor

13.—(1) The Lieutenant Governor in Council may appoint a university supervisor for a university where, having regard to the content of the report of an investigation under section 12, the Lieutenant Governor in Council is of the opinion that the university is in contravention of subsection 11 (2) and that the financial situation at the university warrants such action.

Term of
office

(2) The appointment of a university supervisor is valid until terminated by order of the Lieutenant Governor in Council.

Duty of
university
supervisor

(3) A university supervisor appointed for a university shall give advice and guidance to the governing body and the chief executive officer of the university for the purpose of improving the financial situation of the university.

Duty of
governing
body and
chief
executive
officer

(4) It is the duty of the governing body and the chief executive officer of a university to receive and consider the advice and guidance of a university supervisor appointed for the university.

Action on
behalf of
governing
body, etc.

(5) Where a university supervisor appointed for a university requests in writing that the governing body or the chief executive officer do any act that they have authority to do and, in the opinion of the university supervisor, they fail to do so, the uni-

versity supervisor may do the act on behalf of the governing body or the chief executive officer and the act is as effective as if done by the governing body or the chief executive officer, as the case may be.

(6) During the term of office of a university supervisor appointed for a university, no act of the governing body is valid unless approved in writing by the university supervisor.

Action by governing body

(7) A university supervisor appointed for a university has the same rights as the governing body and the chief executive officer of the university in respect of the documents, records and information of the university.

Right of access

(8) A university supervisor may report to the Minister from time to time and shall report to the Minister in such form and manner, with such information and at such times, as the Minister may require.

Reports

14.—(1) No action or other proceeding for damages or otherwise shall be instituted against an investigator or a university supervisor appointed under this Act for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority.

Protection from personal liability

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an investigator or a university supervisor to which the Crown would otherwise be subject and the Crown is liable under that Act for any such tort in the same manner as if subsection (1) had not been enacted.

Crown not relieved of liability
R.S.O. 1980, c. 393

15. In the event of conflict between any provision of this Part and the provision of any other Act, the provision of this Part prevails.

Conflict

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commencement

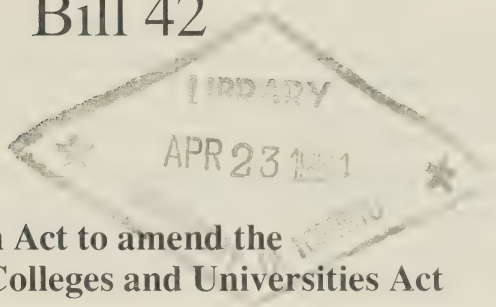
3. The short title of this Act is the *Ministry of Colleges and Universities Amendment Act, 1983*.

Short title

SCHEDULE

Algoma College Association
Brock University
Carleton University
The Dominican or Friar Preachers of Ottawa College
Lakehead University
Laurentian University of Sudbury
Le Collège de Hearst
McMaster University
Nipissing College
Ontario College of Art
Ontario Institute for Studies in Education
Queen's University
Ryerson Polytechnical Institute
Trent University
University of Guelph
University of Ottawa
University of Toronto
University of Waterloo
University of Western Ontario
University of Windsor
Wilfrid Laurier University
York University

Bill 42



An Act to amend the Ministry of Colleges and Universities Act

The Hon. B. Stephenson

Minister of Education and Minister of Colleges and Universities

<i>1st Reading</i>	May 16th, 1983
<i>2nd Reading</i>	June 13th, 1983
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Social Development Committee)

EXPLANATORY NOTES

The Bill requires that no university incur a cumulative deficit in its operating fund in any fiscal year in excess of 2 per cent of its revenue for the year.

The Bill also requires that universities make financial reports to the Minister in such form, containing such information and by such dates as the Minister may require.

The Bill also provides for the appointment of one or more persons to investigate and report on the financial situation of a university.

The Lieutenant Governor in Council is authorized to appoint a university supervisor for a university where, having regard to the report of the investigation, the Lieutenant Governor in Council is of the opinion that the financial situation of the university is such that action should be taken to improve it.

The university supervisor is required to provide advice and guidance to the governing body and the chief executive officer of the university.

The university supervisor may request the governing body or the chief executive officer of the university to do any act that they have authority to do, and may do the act on their behalf if they fail to comply with his request.

Provision is made for reports by a university supervisor to the Minister.

The appointment of a university supervisor continues in force until terminated by order of the Lieutenant Governor in Council.

Investigators and university supervisors are protected against personal liability.

Bill 42

1983

**An Act to amend the
Ministry of Colleges and Universities Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Ministry of Colleges and Universities Act*, being chapter 272 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part:

Part II,
(ss. 11-15),
enacted

PART II

11.—(1) In this Part,

Interpre-
tation

- (a) “governing body” means a Board of Governors, Board of Trustees, Board of Directors, Governing Council or Council of a university that has the responsibility for the government, conduct, management and control of the university;
- (b) “operating fund” means a fund that is a self-balancing accounting entity that accounts for the cost of instruction, research other than sponsored or contract research, academic support services, administration, plant maintenance and other general expenses of a university and that is financed from operating revenue;
- (c) “operating revenue” means the revenue from tuition and other related fees, operating grants and other general income;
- (d) “university” means a university or post-secondary educational institution listed in the Schedule.

(2) No university shall incur in any fiscal year a cumulative deficit in its operating fund that is in excess of 2 per cent of its operating revenue for the year.

No deficit

Financial
reports

(3) A university shall make such financial reports to the Minister, in such form, containing such information and by such dates as the Minister may require.

Investi-
gators

12.—(1) Where the Lieutenant Governor in Council, having regard to a financial report referred to in subsection 11 (3) and any other financial information that may be available, is of the opinion that a university is in contravention of subsection 11 (2), he may appoint an investigator for the university to investigate and report on the financial situation of the university.

Powers of
investigator

(2) An investigator may,

- (a) examine and audit all the books, accounts and records of the university; and
- (b) investigate and require financial information from any person in possession of information in respect of the university,

at any time, but only for the purpose of this Part.

Obstruction

(3) No person shall obstruct an investigator or withhold or destroy, conceal or refuse to furnish any information or thing required by the investigator for the purposes of the investigation.

Report

(4) The Minister shall cause a copy of the report of an investigation to be delivered to the chairman of the governing body of the university.

University
supervisor

13.—(1) The Lieutenant Governor in Council may appoint a university supervisor for a university where, having regard to the content of the report of an investigation under section 12, the Lieutenant Governor in Council is of the opinion that the university is in contravention of subsection 11 (2) and that the financial situation at the university warrants such action.

Term of
office

(2) The appointment of a university supervisor is valid until terminated by order of the Lieutenant Governor in Council.

Duty of
university
supervisor

(3) A university supervisor appointed for a university shall give advice and guidance to the governing body and the chief executive officer of the university for the purpose of improving the financial situation of the university.

(4) It is the duty of the governing body and the chief executive officer of a university to receive and consider the advice and guidance of a university supervisor appointed for the university.

Duty of governing body and chief executive officer

(5) Where a university supervisor appointed for a university requests in writing that the governing body or the chief executive officer do any act that they have authority to do and, in the opinion of the university supervisor, they fail to do so, the university supervisor may do the act on behalf of the governing body or the chief executive officer and the act is as effective as if done by the governing body or the chief executive officer, as the case may be.

Action on behalf of governing body, etc.

(6) During the term of office of a university supervisor appointed for a university, no act of the governing body is valid unless approved in writing by the university supervisor.

Action by governing body

(7) A university supervisor appointed for a university has the same rights as the governing body and the chief executive officer of the university in respect of the documents, records and information of the university.

Right of access

(8) A university supervisor may report to the Minister from time to time and shall report to the Minister in such form and manner, with such information and at such times, as the Minister may require.

Reports

14.—(1) No action or other proceeding for damages or otherwise shall be instituted against an investigator or a university supervisor appointed under this Act for any act done in good faith in the execution or intended execution of any duty or authority under this Act or for any alleged neglect or default in the execution in good faith of any such duty or authority.

Protection from personal liability

(2) Subsection (1) does not, by reason of subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by an investigator or a university supervisor to which the Crown would otherwise be subject and the Crown is liable under that Act for any such tort in the same manner as if subsection (1) had not been enacted.

Crown not relieved of liability
R.S.O. 1980, c. 393

15. In the event of conflict between any provision of this Part and the provision of any other Act, the provision of this Part prevails.

Conflict

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commencement

Short title

3. The short title of this Act is the *Ministry of Colleges and Universities Amendment Act, 1983*.

SCHEDULE

Algoma College Association
Brock University
Carleton University
The Dominican or Friar Preachers of Ottawa College
Lakehead University
Laurentian University of Sudbury
Le Collège de Hearst
McMaster University
Nipissing College
Ontario College of Art
Ontario Institute for Studies in Education
Queen's University
Ryerson Polytechnical Institute
Trent University
University of Guelph
University of Ottawa
University of Toronto
University of Waterloo
University of Western Ontario
University of Windsor
Wilfrid Laurier University
York University

Bill 43



An Act to amend the Income Tax Act

The Hon. G. L. Ashe
Minister of Revenue

1st Reading May 16th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill implements the proposals contained in the Treasurer's Budget of May 10th, 1983.

SECTION 1. Section 1 enacts a new section 2a which imposes a temporary surcharge, at the rate of 2.5 per cent for the 1983 taxation year and at the rate of 5 per cent for the 1984 taxation year, calculated on the amount of personal income tax otherwise payable by individual taxpayers before deduction of tax credits, if the taxpayer is otherwise required to pay income tax at the full rate.

SECTION 2. Section 2 provides for the continuation of the personal income tax rate for the 1983 and subsequent taxation years at 48 per cent.

Clause 3 (5) (k) now reads as follows:

(k) 48 per cent in respect of the 1982 taxation year.

Bill 43

1983

An Act to amend the Income Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Income Tax Act*, being chapter 213 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

s. 2a,
enacted

2a. Every individual whose taxable income exceeds the amount prescribed for the purposes of subsection 6 (2) for the 1983 or 1984 taxation year shall, in addition to the income tax otherwise payable by him under this Act, pay,

Temporary
surcharge

- (a) in respect of the 1983 taxation year, a tax of 2.5 per cent; and
- (b) in respect of the 1984 taxation year, a tax of 5 per cent,

of the tax that exceeds the amount prescribed for the purposes of this section and that is payable by him under the provisions of this Act, other than this section, before any deduction authorized by subsection 3 (8) or section 7.

2. Clause 3 (5) (k) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 13, section 1, is repealed and the following substituted therefor:

s. 3 (5) (k),
re-enacted

- (k) 48 per cent in respect of the 1982 and subsequent taxation years.

3. This Act shall be deemed to have come into force on the 1st day of January, 1983.

Commence-
ment

4. The short title of this Act is the *Income Tax Amendment Act, 1983*.

Short title

Bill 43

*(Chapter 37
Statutes of Ontario, 1983)*

An Act to amend the Income Tax Act

The Hon. G. L. Ashe
Minister of Revenue

<i>1st Reading</i>	May 16th, 1983
<i>2nd Reading</i>	May 31st, 1983
<i>3rd Reading</i>	June 9th, 1983
<i>Royal Assent</i>	June 9th, 1983

Bill 43

1983

An Act to amend the Income Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Income Tax Act*, being chapter 213 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 2a,
enacted

2a. Every individual whose taxable income exceeds the amount prescribed for the purposes of subsection 6 (2) for the 1983 or 1984 taxation year shall, in addition to the income tax otherwise payable by him under this Act, pay, Temporary
surcharge

(a) in respect of the 1983 taxation year, a tax of 2.5 per cent; and

(b) in respect of the 1984 taxation year, a tax of 5 per cent,

of the tax that exceeds the amount prescribed for the purposes of this section and that is payable by him under the provisions of this Act, other than this section, before any deduction authorized by subsection 3 (8) or section 7.

2. Clause 3 (5) (k) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 13, section 1, is repealed and the following substituted therefor: s. 3 (5) (k),
re-enacted

(k) 48 per cent in respect of the 1982 and subsequent taxation years.

3. This Act shall be deemed to have come into force on the 1st day of January, 1983. Commence-
ment

4. The short title of this Act is the *Income Tax Amendment Act, 1983*. Short title

Bill 44

APR 23 1983

**An Act to amend the
Compensation for Victims of Crime Act**

Mr. Kennedy

1st Reading May 19th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to extend the eligibility for compensation under the *Compensation for Victims of Crime Act* to any person who has been convicted of an offence and sentenced to a term of imprisonment and whose conviction is subsequently quashed.

The circumstances under which such a person would be eligible for compensation are set out in the new subsection 5 (2). The person must have been convicted and sentenced to prison after having pleaded not guilty to the offence with which he was charged. Under the new subsection 6 (2), an application for compensation can be made when the decision quashing the conviction becomes final.

As set out in the new subsection 7 (3), the victim may receive compensation for expenses actually incurred and pecuniary losses resulting from the imprisonment and for legal expenses incurred in appealing the conviction.

In determining compensation, the Board, as set out in subsection 17 (2), must consider all of the circumstances surrounding the charge, conviction and quashing of the conviction, including the behaviour of the victim.

Under the new subsection 19 (6), the Board may award a lump sum payment to the victim of up to \$15,000 for each year that the victim was imprisoned, to a maximum of \$60,000.

Other amendments contained in the Bill are complementary to the above-noted amendments.

Bill 44

1983

**An Act to amend the
Compensation for Victims of Crime Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (1) (g) of the *Compensation for Victims of Crime Act*, being chapter 82 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 1 (1) (g),
re-enacted

- (g) “victim” means a person injured or killed in the circumstances set out in subsection 5 (1) or a person who is convicted of an offence and sentenced to a term of imprisonment and whose conviction is subsequently quashed in the circumstances set out in subsection 5 (2).

2. Section 5 of the said Act is amended by adding thereto the following subsection: s. 5,
amended

(2) Where a person is charged in Ontario with an offence under a Statute of Canada or Ontario and, having pleaded not guilty, is convicted and sentenced to a term of imprisonment and the conviction is subsequently quashed, the Board, on application therefor, may make an order that it, in its discretion exercised in accordance with this Act, considers proper for the payment of compensation to the victim. Compen-
sation to
imprisoned
persons

3.—(1) Section 6 of the said Act is amended by inserting after “compensation” in the first line “under subsection 5 (1)”. s. 6,
amended

(2) The said section 6 is further amended by adding thereto the following subsections: s. 6,
amended

(2) An application for compensation under subsection 5 (2) shall not be made until the date on which the decision or order quashing the conviction becomes final and shall be made within one year of that date. Idem

Final
decision

(3) For the purposes of subsection (2), a decision or order quashing a conviction becomes final when the guilt or innocence of the victim has been finally determined and no further right of appeal or right to apply for leave to appeal remains.

s. 7 (1),
amended

4.—(1) Subsection 7 (1) of the said Act is amended by adding at the commencement thereof “In an application under subsection 5 (1)”.

s. 7,
amended

(2) Section 7 of the said Act is amended by adding thereto the following subsection:

Idem

(3) In an application under subsection 5 (2), compensation may be awarded for,

- (a) expenses actually and reasonably incurred as a result of the victim's imprisonment;
- (b) pecuniary loss incurred by the victim as a result of the victim's imprisonment during the period of imprisonment; and
- (c) legal expenses actually and reasonably incurred in appealing the conviction.

s. 17,
re-enacted

5. Section 17 of the said Act is repealed and the following substituted therefor:

Considerations of
Board

17.—(1) In determining whether to make an order for compensation under subsection 5 (1) and the amount thereof, the Board shall have regard to all relevant circumstances, including any behaviour of the victim that may have directly or indirectly contributed to his injury or death.

Idem

(2) In determining whether to make an order for compensation under subsection 5 (2) and the amount thereof, the Board shall have regard to all relevant circumstances surrounding the charge, conviction and quashing of the conviction, including the behaviour of the victim.

Idem

(3) The Board may, in its discretion, refuse to make an order for compensation under subsection 5 (2) where it is satisfied that the applicant has refused reasonable co-operation with, or failed to report promptly the offence to, a law enforcement agency.

Idem

(4) In assessing pecuniary loss, the Board shall take into consideration any benefit, compensation or indemnity payable to the applicant from any source.

6. Section 19 of the said Act is amended by adding thereto the following subsection:

s. 19,
amended

(6) The amount awarded by the Board to be paid in respect of an application under subsection 5 (2) shall not exceed \$15,000 for each year that the victim was imprisoned and shall not exceed \$60,000 in total, and the amount awarded shall be paid in a lump sum.

Maximum
awards for
victim in
application
under s. 5 (2)

7. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

8. The short title of this Act is the *Compensation for Victims of Crime Amendment Act, 1983.*

Short title

Bill 45



An Act to amend the Human Tissue Gift Act

Mr. Van Horne

1st Reading May 19th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill is intended to facilitate the obtaining of human organs for transplant purposes.

An automated central register of consents and objections to the use of organs for transplant purposes after death is contemplated, to allow physicians to ascertain deceased persons' wishes more readily.

Where no objection by a deceased person has been registered, and there is no reason to believe that the deceased had or that the deceased's next of kin have any objections, removal of organs for transplant is authorized without the specific consent that otherwise would be required. Section 29 of the *Coroners Act* deals with the removal of human pituitary glands, used in the treatment of persons suffering from growth hormone deficiencies, in a similar fashion.

Bill 45

1983

An Act to amend the Human Tissue Gift Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Part II of the *Human Tissue Gift Act*, being chapter 210 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections:

ss. 8a, 8b,
enacted

8a.—(1) In this section,

Interpre-
tation

- (a) “consent” means a consent given under clause 4 (1) (a);
- (b) “objection” means an objection made under clause 8b (3) (a).

(2) The Minister of Health shall maintain a register of consents and objections that are filed with the Ministry of Health or the Ministry of Transportation and Communications.

Register of
consents and
objections

(3) A record of a consent or objection contained in the register,

Nature and
amendment
of register

- (a) shall be stored electronically or on a magnetic medium so as to be capable of being retrieved by reference to the person who gave the consent or made the objection;
- (b) shall be amended or deleted where the person who gave the consent or made the objection so requests; and
- (c) may be deleted where the Minister of Health is satisfied that the person who gave the consent or made the objection has died.

(4) No person shall have access to a record of a consent or objection except,

Access to
register

- (a) the person who gave the consent or made the objection, and his or her personal representative;
- (b) a physician who *bona fide* requires the information in connection with a proposed transplant, or a person acting on the physician's behalf; and
- (c) an employee of the Minister of Health whose duties require access to the record.

Removal of
organs for
transplant

8b.—(1) Notwithstanding anything else in this Part, but subject to subsection (3), the physician attending on a person who has died or whose death is imminent and who, in the opinion of the physician, is incapable of giving a consent by reason of injury or disease, may consent to the removal after the person's death, for use for transplant purposes, of tissue from the person's body.

Consent
is full
authority

(2) A consent given under subsection (1) is binding upon the person's death and is, subject to subsection (3) and section 6, full authority for the removal for use for transplant purposes of tissue from the person's body, notwithstanding that no consent otherwise required by law is given.

Objections

(3) No person shall give a consent under subsection (1) or remove tissue from a person's body after death for transplant purposes where,

- (a) the register maintained under subsection 8a (2) shows that the person who died has made an objection to the removal of the tissue from his or her body after death for transplant purposes; or
- (b) the physician attending on the person or the person removing the tissue have actual knowledge that the person who died objected or that a surviving spouse, parent, child, brother, sister or personal representative objects to the body being so dealt with.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Human Tissue Gift Amendment Act, 1983*.

Bill 46



An Act to amend the Landlord and Tenant Act

Mr. Boudria

1st Reading May 19th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide increased protection for tenants residing in a mobile home park who are forced to move from the park by a landlord who requires possession of the park for certain purposes. The Act currently requires the landlord to give the tenant at least 120 days notice before terminating the tenancy agreement. The Bill increases this notice period from 120 days to one year.

Bill 46

1983

An Act to amend the Landlord and Tenant Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

s. 128a,
enacted

128a.—(1) Notwithstanding section 100, 101, 102, 103, 104, 105 or subsection 107 (1), where the landlord of a mobile home park requires possession of residential premises for the purpose of,

Termination
by
landlord for
demolition,
etc.

- (a) demolition;
- (b) conversion to any use other than a mobile home park;
- (c) repairs or renovations so extensive as to require vacant possession of the premises; or
- (d) cessation of business as a mobile home park,

the landlord may, at any time during the currency of the tenancy agreement, give notice of termination of the tenancy agreement, but the date of termination specified shall not be sooner than one year after the date the notice is given.

(2) Subsections 107 (2) to (6) apply with necessary modifications in respect of a notice of termination given under subsection (1).

Application
of
s. 107 (2-6)

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Landlord and Tenant Amendment Act*, 1983.

Short title

Bill 47



An Act to provide for Class Actions

Mr. Swart

1st Reading May 20th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of this Bill is to provide a statutory procedure whereby one or more persons may sue a defendant in the form of a class action.

The Bill is designed to achieve this purpose by permitting a person who wishes to sue on behalf of a class to apply for a court order authorizing the class action. Once the order is obtained, the action proceeds as a class action, and the final judgment binds all members of the class, except those who have been excluded, as well as the parties to the action.

Bill 47

1983

An Act to provide for Class Actions

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, “Court” means the Supreme Court of Ontario. Interpretation

2.—(1) Where a person has a cause of action involving questions of law or fact that are common to a class of persons, he may commence the action as representative party on behalf of the class. Class action

(2) An action under subsection (1) shall not be maintained as a class action unless the person or persons suing as representative party has obtained an order of the Court permitting the action to proceed as a class action. Order required

3.—(1) A representative party may apply to the Court for an order referred to in section 2, and the Court may make the order where it is satisfied that, Where order to be granted

- (a) the claims of the representative party are typical of the claims of the class;
- (b) the questions of law or fact common to the members of the class predominate over any questions affecting only individual members;
- (c) a class action is superior to other available methods for the fair and efficient adjudication of the controversy; and
- (d) the representative party is acting in good faith and it is *prima facie* in the interests of the class that the action be maintained as a class action.

(2) The Court shall not refuse to make an order under this section on the ground only that, Where order not to be denied

- (a) the relief claimed in the action includes a claim for damages;
- (b) the relief claimed in the action arises out of or relates to separate contracts or transactions made with or entered into between members of the class and the defendant; or
- (c) any damages claimed for members of the class will require individual action.

Content
of order

- (3) An order under subsection (1) shall,
- (a) define the class on whose behalf the claim is brought;
 - (b) describe briefly the nature of the claim made and of the relief sought;
 - (c) state the questions of law or fact that are common to the class; and
 - (d) specify a date before which members of the class may exclude themselves from the class.

Variation
of order

(4) An order made under this section may be varied from time to time or rescinded by the Court if it thinks it fit and just to do so before judgment in the action.

Notice of
class action

4.—(1) Where an order is made under section 3, the Court may direct that notice in manner and form satisfactory to the Court be given to the members of the class or any of them advising them of the proceedings and of the date before which members of the class may exclude themselves from the class.

Statement
of desire
for exclu-
sion from
the class

(2) Where a person has notice that he is a member of a class on behalf of which a representative party is suing, he shall be excluded from the class by filing with the Court a statement of his desire to be excluded, in writing signed by him prior to the date specified in the order under section 3, and may be excluded, in the discretion of the Court, where the statement is filed subsequent to the date specified in the order and prior to judgment.

Judgment

5.—(1) The judgment in a class action constitutes a final judgment between each member of the class who was not excluded under section 4 and each person against whom the class action was taken in respect of those matters set out in the order under section 3.

(2) Notwithstanding anything in subsection (1), the Court may provide in the judgment for subsequent determination of the amount of compensation for loss or damage suffered by members of the class or any other issues. Idem

6. An action maintained as a class action shall not be discontinued, settled or dismissed for want of prosecution without the approval of the Court, and, if the Court determines that the interests of the class may be substantially affected by such discontinuance, settlement or dismissal, the Court may direct that notice in manner, form and content satisfactory to the Court shall be given. Discontinuance, settlement, etc.

7. This Act comes into force on the day it receives Royal Assent. Commencement

8. The short title of this Act is the *Class Actions Act, 1983*. Short title

3RD SESSION, 32ND LEGISLATURE, ONTARIO

32 ELIZABETH II, 1983

Bill 48

An Act to amend the Municipality of Metropolitan Toronto Act

Mr. Grande

1st Reading May 24th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill is intended to undo most of the amendments made by the *Municipality of Metropolitan Toronto Amendment Act, 1983* (See Bill 127 of 1982).

Bill 48

1983

**An Act to amend the
Municipality of Metropolitan Toronto Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 127 (3), (4), (5), (6) and (7) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6, are repealed. s. 127 (3-7),
repealed

2. Sections 130a, 130b, 130c, 130d, 130e, 130f, 130g, 130h and 130i of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 7, are repealed. ss. 130a-103i,
repealed

3. Section 130j of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 8, is repealed. s. 130j,
repealed

4.—(1) Clause 133 (1) (e) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 9, is repealed. s. 133 (1) (e),
repealed

(2) Clauses 133 (4) (a) and (b) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 9, section 9, are repealed and the following substituted therefor: s. 133 (4)
(a, b),
re-enacted

- (a) the aggregate estimates of all sums required for public elementary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum calculated at one and one-half mills in the dollar upon the total assessment in the area municipality for public school purposes according to the last revised assessment roll; and
- (b) the aggregate estimates of all sums required for secondary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by

the School Board shall not exceed a sum calculated at one mill in the dollar upon the total assessment in the area municipality for secondary school purposes according to the last revised assessment roll.

s. 219 (3, 4),
re-enacted

5. Subsections 219 (3) and (4) of the said Act, as re-enacted by the Statutes of Ontario, 1983, chapter 9, section 10, are repealed and the following substituted therefor:

Public
school
purposes

(3) The amount levied under subsection (1) for public school purposes shall be apportioned among the area municipalities in the proportion that the whole rateable property rateable for public school purposes in each of the area municipalities bears to the whole rateable property rateable for public school purposes in the Metropolitan Area, according to the last revised assessment rolls.

Secondary
school
purposes

(4) The amount levied under subsection (1) for secondary school purposes shall be apportioned among the area municipalities in the proportion that the whole rateable property rateable for secondary school purposes in each of the area municipalities bears to the whole rateable property rateable for secondary school purposes in the Metropolitan Area, according to the last revised assessment rolls.

Commence-
ment

6.—(1) This Act, except section 3, comes into force on the day it receives Royal Assent.

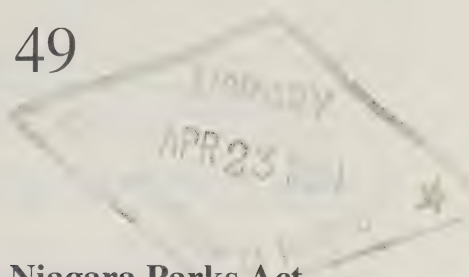
Idem

(2) Section 3 shall be deemed to have come into force on the 1st day of January, 1983.

Short title

7. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1983*.

Bill 49



An Act to amend the Niagara Parks Act

The Hon. R. Baetz

Minister of Tourism and Recreation

1st Reading May 31st, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. Subsection 10 (2) of the Act as it now stands permits the Lieutenant Governor in Council to make controlled access highway regulations with respect to designated roadways in the parks administered by The Niagara Parks Commission. The new subsection would clarify and expand this power and confer it on the Commission.

SECTION 2. This clarifies and expands existing regulation making powers with respect to signs and notices.

SECTION 3. Proposed section 23 sets out procedures for dealing with property that is lost, mislaid or abandoned by visitors to the parks.

Bill 49

1983

An Act to amend the Niagara Parks Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 10 (2) of the *Niagara Parks Act*, being chapter 317 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

s. 10 (2),
re-enacted

(2) Section 38 of the *Public Transportation and Highway Improvement Act* applies with necessary modifications to any portion of any of the highways, roads, boulevards or parkways designated under subsection (1) and for such purpose any reference in that section to the Minister or the Ministry shall be deemed to be a reference to the Commission.

Application
of
R.S.O. 1980,
c. 421, s. 38

2. Clause 21 (1) (f) of the said Act is repealed and the following substituted therefor:

s. 21 (1) (f),
re-enacted

(f) prohibiting or licensing, regulating and governing the erection, posting up or other display of notices, signs, sign boards and other advertising devices in the Parks or within 400 metres of any part thereof;

(fa) prescribing fees, permits and terms and conditions under which the erection, posting up or other display of notices, signs, sign boards, and other advertising devices may be permitted within the Parks or within 400 metres of any part thereof.

3. The said Act is amended by adding thereto the following section:

s. 23,
enacted

23.—(1) Any lost, mislaid or abandoned property coming into the custody of an officer or employee of the Commission or found on the lands of the Commission and not claimed by the owner within three months is the property of the Commission and may be sold under the direction of the Commission, but, where the property is perishable or has no commercial value, it may be given to a charitable institution or destroyed.

Lost,
mislaid or
abandoned
property

Idem

(2) Where a person establishes to the satisfaction of the Commission within one year of the date of sale that he was the owner of property sold under subsection (1), the Commission may direct the payment to him of an amount equal to the price received for the property less the costs referable to the sale and other expenses, including costs and charges under subsection (3), incurred in connection with the property.

Lien for
costs and
charges for
care and
storage

(3) Where any lost, mislaid or abandoned property comes into the custody of an officer or employee of the Commission or is found on the lands of the Commission, any officer or employee of the Commission may take the property into his custody, cause it to be taken, cared for and stored in a suitable place and all costs and charges for removal, care and storage are a lien upon the property and may be enforced in the manner provided by section 52 of the *Mechanics' Lien Act*.

R.S.O. 1980,
c. 261

Commence-
ment

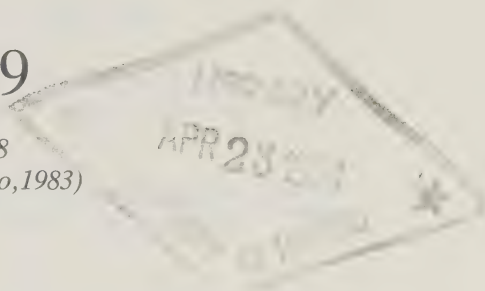
4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Niagara Parks Amendment Act, 1983*.

Bill 49

(Chapter 38
Statutes of Ontario, 1983)



An Act to amend the Niagara Parks Act

The Hon. R. Baetz

Minister of Tourism and Recreation

<i>1st Reading</i>	May 31st, 1983
<i>2nd Reading</i>	June 7th, 1983
<i>3rd Reading</i>	June 9th, 1983
<i>Royal Assent</i>	June 9th, 1983

Bill 49

1983

An Act to amend the Niagara Parks Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 10 (2) of the *Niagara Parks Act*, being chapter 317 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

s. 10 (2),
re-enacted

(2) Section 38 of the *Public Transportation and Highway Improvement Act* applies with necessary modifications to any portion of any of the highways, roads, boulevards or parkways designated under subsection (1) and for such purpose any reference in that section to the Minister or the Ministry shall be deemed to be a reference to the Commission.

Application
of
R.S.O. 1980,
c. 421, s. 38

2. Clause 21 (1) (f) of the said Act is repealed and the following substituted therefor:

s. 21 (1) (f),
re-enacted

- (f) prohibiting or licensing, regulating and governing the erection, posting up or other display of notices, signs, sign boards and other advertising devices in the Parks or within 400 metres of any part thereof;
- (fa) prescribing fees, permits and terms and conditions under which the erection, posting up or other display of notices, signs, sign boards, and other advertising devices may be permitted within the Parks or within 400 metres of any part thereof.

3. The said Act is amended by adding thereto the following section:

s. 23,
enacted

23.—(1) Any lost, mislaid or abandoned property coming into the custody of an officer or employee of the Commission or found on the lands of the Commission and not claimed by the owner within three months is the property of the Commission and may be sold under the direction of the Commission, but, where the property is perishable or has no commercial value, it may be given to a charitable institution or destroyed.

Lost,
mislaid or
abandoned
property

Idem

(2) Where a person establishes to the satisfaction of the Commission within one year of the date of sale that he was the owner of property sold under subsection (1), the Commission may direct the payment to him of an amount equal to the price received for the property less the costs referable to the sale and other expenses, including costs and charges under subsection (3), incurred in connection with the property.

Lien for
costs and
charges for
care and
storage

(3) Where any lost, mislaid or abandoned property comes into the custody of an officer or employee of the Commission or is found on the lands of the Commission, any officer or employee of the Commission may take the property into his custody, cause it to be taken, cared for and stored in a suitable place and all costs and charges for removal, care and storage are a lien upon the property and may be enforced in the manner provided by section 52 of the *Mechanics' Lien Act*.

R.S.O. 1980,
c. 261

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Niagara Parks Amendment Act, 1983*.

Bill 50



An Act respecting French Language Services in Ontario

Mr. Roy

1st Reading May 31st, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

This Bill places a duty on the Government of Ontario to provide, as of right, public services in the French language to the citizens of Ontario subject to certain conditions set out in the Bill. The Bill also establishes the office of the French Language Services Co-ordinator and the Language Services Board to aid in improving the availability of French language services in Ontario.

NOTE EXPLICATIVE

Ce projet de loi fait obligation au gouvernement de l'Ontario d'assurer, de droit, des services publics en français aux citoyens de l'Ontario, sous réserve de certaines conditions énoncées dans le texte. Ce projet de loi établit aussi le poste de Coordonnateur des services en langue française ainsi que le Conseil des services en langue française aux fins d'améliorer la disponibilité de services en langue française en Ontario.

Bill 50**1983**

An Act respecting French Language Services in Ontario

Whereas the French language is an historic, honoured and constitutional language of Canada, and whereas there is need to give legal definition to the rights of citizens to have Ontario Government services provided in French;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “Board” means the Language Services Board established under section 5;
- (b) “Co-ordinator” means the French Language Services Co-ordinator appointed under section 6;
- (c) “Government of Ontario” includes every board, commission, corporation and agency thereof.

2. Subject to section 7, the Government of Ontario shall ensure the provision of educational, judicial, health, social, municipal and other public services in Ontario in the French language in accordance with this Act and with recommendations contained in the report of the Language Services Board or a report of the Co-ordinator of French Language Services.

Government
to provide
French
language
services

3. The English and French languages may be used by any person in any proceedings of the Legislative Assembly or a committee thereof, and the Order Papers, Votes and Proceedings, records and reports of the Assembly or any committee thereof may be printed in both the English and French languages, and any Bill or motion may be introduced in both the English and French languages, and any Act of the Legislative Assembly may be printed and published in both the English and French languages.

Legislative
Assembly

Statutes

4.—(1) Subject to sections 6 and 7, the Acts designated by the Co-ordinator of French Language Services shall be printed and published in English and French and the annual Statutes of Ontario shall be printed and published in English and French.

Statutes

(2) Any regulation, proclamation or notice issued in Ontario may be issued in both English and French and where a regulation, proclamation or notice is issued in both languages and is required to be printed in *The Ontario Gazette*, the regulation, proclamation or notice shall be published accordingly in both languages.

Language
Services
Board

5.—(1) The Language Services Board is hereby established and shall be composed of the Co-ordinator of French Language Services, the Chairman of the Civil Service Commission and three members appointed by the Lieutenant Governor in Council of whom at least two shall be persons who are not members of the public service at the time of appointment.

Chairman

(2) The Lieutenant Governor in Council shall appoint one of the members of the Board as chairman who shall be a person capable of speaking and understanding the English and French languages.

Term of
office

(3) The members of the Board shall be appointed to hold office for a term of one year commencing on the day of the appointment of the chairman and the Board is terminated on the day on which the terms of office expire.

Duties

(4) The Language Services Board shall,

- (a) review the availability of French language services in all parts of Ontario;
- (b) recommend and designate areas of the Province of Ontario in which government services shall be provided in both English and French;
- (c) recommend the extent to which French language services should be provided in those parts of the Province of Ontario not designated under clause (b);
- (d) recommend a time schedule for implementing the recommendations in clauses (b) and (c), and the Board shall report its findings and recommendations to the Premier before the day on which the Board is terminated and the Premier shall forthwith lay the report before the Assembly if it is in session or, if

not, at the commencement of the next ensuing session.

6.—(1) A Co-ordinator of French Language Services shall be appointed by the Lieutenant Governor in Council who shall have the rank of Deputy Minister and who shall be responsible for supervising and co-ordinating the provision of French Language Services in Ontario.

Co-ordinator of French Language Services

(2) A French Language Services Committee is hereby established to be composed of one representative from each Ministry of the Government to assist the French Language Services Co-ordinator in carrying out his duties under this Act.

French Language Services Committee

(3) The Co-ordinator after the close of each calendar year shall submit to the Premier an annual report containing an assessment of the availability of French language services in Ontario and any recommendations the Co-ordinator may feel are desirable in order to extend or improve the availability of French language services in Ontario and the Premier shall forthwith lay the report before the Assembly if it is in session or, if not, at the commencement of the next ensuing session.

Co-ordinator's report

7.—(1) The Government shall implement all recommendations contained in the report of the Language Services Board or a report of the Co-ordinator unless within six months of the day that the report of the Board or Co-ordinator is submitted to the Premier, the Government lays before the Assembly a statement of intention indicating the recommendations which the Government does not intend to implement.

Statement of intention

(2) The report of the Board, every report of the Co-ordinator and every statement of intention stands permanently referred to a Standing Committee of the Legislature for the purposes of examination and review and the Committee shall, at least once in every five year period, review and make recommendations concerning amendments to the Act or changes in administrative procedures designed to improve the availability of French language services in Ontario.

Standing Committee

8.—(1) Nothing in this Act shall be construed as authorizing a reduction in the availability of French language services existing on the day this Act comes into force.

Saving

(2) Nothing in this Act shall be construed to prohibit the Government from providing French language services where the provision of such services has not been recommended or considered by the Language Services Board or the Co-ordinator.

Idem

Courts

R.S.O. 1980,
c. 223

(3) Court proceedings and hearings shall be conducted in the French language in accordance with the *Judicature Act* as amended from time to time.

Commence-
ment

9. This Act comes into force on the day it receives Royal Assent.

Short title

10. The short title of this Act is the *Ontario French Language Services Act, 1983*.

Projet de loi 50**1983****Loi concernant les services assurés en français en Ontario**

Attendu le rôle privilégié que l'histoire et la constitution du Canada reconnaissent à la langue française et attendu que la loi doit sanctionner le droit des citoyens à ce que les services du gouvernement de l'Ontario soient assurés en français,

Préambule

Sa Majesté, sur l'avis et du consentement de l'Assemblée législative de la province de l'Ontario, édicte ce qui suit:

1 Les définitions qui suivent s'appliquent à la présente loi.

Définitions

«Conseil» Conseil des services en langue française établi par l'article 5.

«Coordonnateur» Coordonnateur des services en langue française nommé en vertu de l'article 6.

«Gouvernement de l'Ontario» Comprend tout conseil, toute commission, société et tout organisme du gouvernement de l'Ontario.

2 Sous réserve de l'article 7, le gouvernement de l'Ontario assure les services éducatifs, judiciaires, de santé publique, sociaux, municipaux et les autres services publics en français dans la province conformément à la présente loi et aux recommandations du rapport du Conseil des services en langue française ou d'un rapport du Coordonnateur des services en langue française.

Prestation par le gouvernement de services en langue française

3 Quiconque peut employer l'anglais et le français dans toutes délibérations de l'Assemblée législative ou d'un de ses comités et les feuillets, procès-verbaux, comptes rendus et rapports de l'Assemblée ou d'un de ses comités peuvent être imprimés en anglais et en français, et tout projet de loi ou toute motion peuvent être présentés en anglais et en français et toute loi de l'Assemblée législative peut être imprimée et publiée en anglais et en français.

Assemblée législative

Lois

4 (1) Sous réserve des articles 6 et 7, les lois désignées par le Coordonnateur des services en langue française sont imprimées et publiées en anglais et en français et les Lois annuelles de l'Ontario sont imprimées et publiées en anglais et en français.

Lois

(2) Tout règlement, toute proclamation ou tout avis émis en Ontario peuvent l'être en anglais et en français et, si un règlement, une proclamation ou un avis sont émis dans les deux langues et doivent être publiés dans l'*Ontario Gazette*, le règlement, la proclamation ou l'avis sont publiés dans les deux langues.

Conseil des
services en
langue
française

5 (1) Il est établi un Conseil des services en langue française composé du Coordonnateur des services en langue française, du président de la Commission de la fonction publique et de trois membres nommés par le lieutenant-gouverneur en conseil, dont deux au moins ne font pas partie de la fonction publique au moment de leur nomination.

Président

(2) Le lieutenant-gouverneur en conseil nomme à titre de président un des membres du Conseil qui parle et comprend l'anglais et le français.

Mandat

(3) Les membres du Conseil sont nommés pour un an à compter du jour de la nomination du président et le Conseil est dissous le jour où les mandats expirent.

Fonctions

(4) Le Conseil des services en langue française

- a) examine la disponibilité des services en langue française dans toutes les régions de la province;
- b) recommande et désigne des régions de la province où les services gouvernementaux doivent être assurés en anglais et en français;
- c) recommande la mesure dans laquelle des services en langue française devraient être assurés dans les régions de la province qui ne sont pas désignées aux termes de l'alinéa b);
- d) recommande un programme d'application des recommandations visées par les alinéas b) et c) et fait rapport de ses conclusions et recommandations au Premier ministre avant sa dissolution et le Premier ministre dépose le rapport à l'Assemblée sans délai, si elle est en session ou, sinon, au commencement de la session suivante.

6 (1) Le lieutenant-gouverneur en conseil nomme un Coordonnateur des services en langue française qui a le rang de sous-ministre et a pour fonction de surveiller et de coordonner la prestation de services en langue française en Ontario.

Coordonnateur des services en langue française

(2) Il est établi un Comité des services en langue française composé d'un représentant de chaque ministère et chargé d'aider le Coordonnateur des services en langue française à s'acquitter des fonctions que lui attribue la loi.

Comité des services en langue française

(3) À la fin de chaque année civile, le Coordonnateur présente au Premier ministre un rapport annuel renfermant une évaluation de la disponibilité des services en langue française dans la province et les recommandations du Coordonnateur afin d'en accroître ou améliorer la disponibilité. Le Premier ministre dépose le rapport à l'Assemblée sans délai, si elle est en session ou, sinon, au commencement de la session suivante.

Rapport du Coordonnateur

7 (1) Le gouvernement applique toutes les recommandations formulées dans le rapport du Conseil des services en langue française ou dans un rapport du Coordonnateur, sauf si, dans les six mois à partir du jour où le rapport du Conseil ou du Coordonnateur est présenté au Premier ministre, le gouvernement dépose à l'Assemblée une déclaration d'intention indiquant les recommandations que le gouvernement n'entend pas appliquer.

Déclaration d'intention

(2) Le rapport du Conseil, chaque rapport du Coordonnateur et chaque déclaration d'intention relèvent en permanence d'un Comité permanent de la Législature qui les examine et les étudie et le Comité, au moins une fois tous les cinq ans, recommande les modifications à apporter à la loi ou aux procédures administratives afin d'améliorer la disponibilité des services en langue française en Ontario.

Comité permanent

8 (1) Rien dans la présente loi ne doit s'interpréter comme permettant de réduire la disponibilité de services en langue française existant le jour de son entrée en vigueur.

Restriction

(2) Rien dans la présente loi ne doit s'interpréter comme empêchant le gouvernement d'assurer des services en langue française là où le Conseil des services en langue française ou le Coordonnateur n'en ont pas recommandé ou examiné la prestation.

Idem

(3) Les poursuites et audiences devant les tribunaux ont lieu en français conformément à la *Loi sur l'organisation judiciaire* modifiée de temps à autre.

Tribunaux
L.R.O. 1980,
c. 223

Entrée en
vigueur

9 La loi entre en vigueur le jour où elle reçoit la sanction royale.

Titre abrégé

10 Le titre abrégé de la loi est *Loi de 1983 sur les services en langue française en Ontario*.

Bill 51



An Act to amend the Ontario Water Resources Act

The Hon. K.C. Norton

Minister of the Environment

1st Reading June 2nd, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. Section 4 of the Act authorizes the appointment of employees of the Ministry as Directors. The amendment will authorize the appointment of other persons.

SECTION 2.—Subsection 1. New section 42a of the Act will require the payment of additional charges in respect of the provision or operation of sewage works or water works by the Crown.

New section 42b of the Act relates to agreements under subsection 7 (2) or section 8 of the Act for the supply of water or the reception, treatment and disposal of sewage. The new section authorizes annual review and revision of the rates in such an agreement. The section also authorizes more frequent review and revision where the parties to the agreement concur. The section also provides that the rates under such an agreement may be stated in the metric system and the amounts due under the agreement may be calculated and billed in accordance with the metric system. In addition, the section provides that the Crown may calculate the amounts due under such an agreement on an annual basis and may require payment on an annual or more frequent basis.

Subsection 2. New sections 42a and 42b are made applicable to every agreement referred to in those sections notwithstanding the terms of the agreement or when the agreement was made.

SECTION 3. Subsection 44 (1) of the Act authorizes the making of regulations.

Subsection 1. Clauses 44 (1) (k) and (l) of the Act relate to the disposal of sewage from boats. Similar authority to make regulations is now set out in clauses 136 (3) (a) and (b) of the *Environmental Protection Act*.

New clause 44 (1) (k) of the Act will authorize the making of a regulation prescribing the method of calculating additional charges for the purpose of new section 42a.

New clause 44 (1) (l) will authorize the making of regulations classifying sewage works, water works, etc., for the purposes of the regulations.

Subsection 2. Clause 44 (1) (s) of the Act refers only to sections 23 and 24 of the Act. The re-enacted clause will refer to any section of the Act or the regulations. This will assist in identifying a sewage works under this Act and a sewage system under the *Environmental Protection Act*, as well as relating to sewage works and water works dealt with in regulations under the *Ontario Water Resources Act*.

Clause 44 (1) (t) of the Act authorizes the making of regulations related to grievances. The clause is repealed as no longer needed.

Subsections 3 and 4. Subsection 44 (1a) of the Act authorizes the making of regulations related to sections 21 to 21q (water wells) of the Act.

Subsection 5. New subsection 44 (3a) of the Act permits the defining of classes under the Act or the regulations with respect to any attribute, quality or characteristic of members of the class and authorizes the inclusion of any specified member in a class.

SECTION 4. Subsections 62 (2) and (3) of the Act relate to the time when an emergency order takes effect. Subsection 62 (1) of the Act defines the term "emergency order". The rule that, except as otherwise provided, an appeal operates as a stay in the matter, is set out in section 25 of the *Statutory Powers Procedure Act*.

SECTION 5. New section 63 of the Act relates to proceedings before the Environmental Appeal Board.

The section will limit appeals to the matters set out in the notices requiring the hearings. The section will also limit the grounds that may be argued to those set out in the notices. The Board is authorized to widen the subject-matter of a hearing and to permit an applicant to rely on other grounds. In such a case, the Board may give such directions as it considers proper.

SECTION 6. New section 64 of the Act authorizes the Environmental Appeal Board, the Minister or the Divisional Court to allow a matter in appeal before them to be carried out notwithstanding the appeal. Section 25 of the *Statutory Powers Procedure Act* provides that an appeal operates as a stay in the matter. The section sets out the grounds on which a stay may be removed.

Bill 51

1983

An Act to amend the Ontario Water Resources Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 4 (1) of the *Ontario Water Resources Act*, being chapter 361 of the Revised Statutes of Ontario, 1980, is amended by inserting after “Ministry” in the second line “or, subject to the approval of the Lieutenant Governor in Council, such other persons”.

s. 4 (1),
amended

2.—(1) The said Act is amended by adding thereto the following sections:

ss. 42a, 42b,
enacted

AGREEMENTS

42a. A municipality or other person that has entered or that enters into an agreement under this Act with the Crown for the provision or operation of a sewage works or a water works or the provision of sewage service or water service by the Crown shall pay to the Treasurer additional charges in respect of the provision or operation in the amount calculated in accordance with the method prescribed by the regulations.

Overhead
charges

42b.—(1) In this section, “agreement” means an agreement under subsection 7 (2) or section 8 with respect to a supply of water or the reception, treatment and disposal of sewage.

Interpre-
tation

(2) The rates of payment provided for in an agreement may be reviewed and revised annually or, where the parties to the agreement concur, more frequently.

Review and
revision
of rates

(3) The rates of payment provided for in an agreement may be stated, and the amounts due under the agreement may be calculated and billed, on the basis of the units of measurement set out in Schedule I to the *Weights and Measures Act* (Canada).

Units of
measurement

S.C. 1970-71-
72, c. 36

Billing and
payment

(4) The Crown may calculate the amounts due under an agreement on an annual basis and may require payment of the amounts on an annual basis or by way of more frequent periodic payments.

Application
of
ss. 42a, 42b

(2) Sections 42a and 42b of the said Act, as enacted by subsection (1), apply in respect of every agreement referred to in those sections notwithstanding the terms of the agreement and whether or not the agreement was made before this section comes into force.

s. 44 (1)
(k, l),
re-enacted

3.—(1) Clauses 44 (1) (k) and (l) of the said Act are repealed and the following substituted therefor:

- (k) prescribing methods of calculating additional charges for the provision or operation of a sewage works or a water works or a class of either of them or the provision of sewage service or water service or a class of either of them, and such a method may require the calculation of a charge as a percentage of direct operating costs and, for the purpose, may define direct operating costs and may prescribe the percentage;
- (l) classifying sewage works, water works, sewage services and water services for the purposes of the regulations.

s. 44 (1) (s),
re-enacted;
s. 44 (1) (t),
repealed

(2) Clauses 44 (1) (s) and (t) of the said Act are repealed and the following substituted therefor:

- (s) exempting any sewage works or water works or any class of either of them from any provision of this Act or the regulations and prescribing conditions that shall apply in respect of any such exemption.

s. 44 (1a),
amended

(3) Subsection 44 (1a) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 50, section 2, is amended by adding thereto the following clauses:

- (ca) prescribing information, samples and reports that persons constructing wells shall provide during and upon completion of the constructing of the wells and specifying to whom the information, samples and reports shall be provided;
- (cb) prescribing procedures that shall be followed during and upon completion of the constructing of wells by the persons who construct the wells;

- (cc) prescribing terms that shall be deemed to be part of every contract for the construction of a well;
- (cd) prescribing and requiring the use of signs, markings and other identification of vehicles, machines and equipment used in the construction of wells.

(4) Clauses 44 (1a) (j), (k), (l), (m) and (r) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 50, section 2, are repealed and the following substituted therefor:

s. 44 (1a)
(j-m), (r),
re-enacted

- (j) prescribing the records that shall be kept and the returns of information that shall be made to the Director in respect of wells or the business of constructing wells and specifying by whom the records shall be kept and the returns shall be made, and providing for the inspection and examination of the records;
- (k) prescribing and requiring the use of methods of obtaining information to be included in records and returns of information;
- (l) respecting the examination of applicants for well contractor licences and well technician licences and renewals thereof;
- (m) prescribing requirements and standards of qualification for well contractor licences and well technician licences;
-
- (r) prescribing conditions that shall attach to well construction permits, well contractor licences and well technician licences and requiring compliance with such conditions.

(5) Section 44 of the said Act is amended by adding thereto the following subsection:

s. 44,
amended

(3a) A class under this Act or the regulations may be defined with respect to any attribute, quality or characteristic or combination thereof and may be defined to consist of or to include or exclude any specified member whether or not with the same attributes, qualities or characteristics.

Classes

4. Subsections 62 (2) and (3) of the said Act are repealed and the following substituted therefor:

s. 62 (2),
re-enacted;
s. 62 (3),
repealed

Stay
on
appeal

(2) The commencement of a proceeding before the Environmental Appeal Board does not operate as a stay of an emergency order.

s. 63,
enacted

5.—(1) The said Act is further amended by adding thereto the following section:

Contents
of notice
requiring
hearing

63.—(1) An applicant for a hearing by the Environmental Appeal Board shall state in the notice requiring the hearing,

- (a) the portions of the order, direction, report, notice, term, condition, suspension, revocation or licence or other form of permission in respect of which the hearing is required; and
- (b) the grounds on which the applicant for the hearing intends to rely at the hearing.

Effect of
contents
of notice

(2) Except with leave of the Environmental Appeal Board, at a hearing by the Environmental Appeal Board an applicant is not entitled to appeal a portion of the order, direction, report, notice, term, condition, suspension, revocation or licence or other form of permission, or to rely on a ground, that is not stated in the applicant's notice requiring the hearing.

Leave

(3) The Environmental Appeal Board may grant the leave referred to in subsection (2) where the Environmental Appeal Board is of the opinion that to do so is proper in the circumstances, and the Environmental Appeal Board may give such directions as it considers proper consequent upon the granting of the leave.

Application
of subs. (1)

(2) Section 63 of the said Act, as enacted by subsection (1), applies only in respect of a notice requiring a hearing that is served upon the Director or the Environmental Appeal Board after this section comes into force.

s. 64,
enacted

6. The said Act is further amended by adding thereto the following section:

Order
removing
stay

64.—(1) Upon application with notice by the Director, a court or other appellate tribunal before which an appeal has been commenced under this Act, in the circumstances mentioned in subsection (2), by order may remove a stay of a matter in appeal.

Grounds
for order

(2) A court or other appellate tribunal may make an order under this section where the court or other appellate tribunal is satisfied that the order is necessary or advisable to prevent or to reduce,

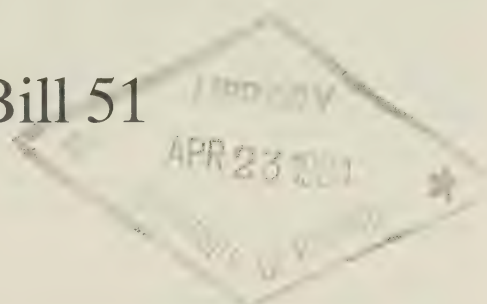
- (a) danger to the health or safety of any person;
- (b) impairment or immediate risk of impairment of any waters or the use thereof; or
- (c) injury or damage or immediate risk of injury or damage to any property or to any plant or animal life.

7.—(1) This Act, except subsections 3 (4) and (5), comes into force on the day it receives Royal Assent. Commence-
ment

(2) Subsections 3 (4) and (5) come into force on a day to be named by proclamation of the Lieutenant Governor. Idem

8. The short title of this Act is the *Ontario Water Resources Amendment Act, 1983*. Short title

Bill 51



An Act to amend the Ontario Water Resources Act

The Hon. K.C. Norton
Minister of the Environment

<i>1st Reading</i>	June 2nd, 1983
<i>2nd Reading</i>	November 1st, 1983
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. Section 4 of the Act authorizes the appointment of employees of the Ministry as Directors. The amendment will authorize the appointment of other persons.

SECTION 2.—Subsection 1. New section 42a of the Act will require the payment of additional charges in respect of the provision or operation of sewage works or water works by the Crown.

New section 42b of the Act relates to agreements under subsection 7 (2) or section 8 of the Act for the supply of water or the reception, treatment and disposal of sewage. The new section authorizes annual review and revision of the rates in such an agreement. The section also authorizes more frequent review and revision where the parties to the agreement concur. The section also provides that the rates under such an agreement may be stated in the metric system and the amounts due under the agreement may be calculated and billed in accordance with the metric system. In addition, the section provides that the Crown may calculate the amounts due under such an agreement on an annual basis and may require payment on an annual or more frequent basis. The right of a party to an agreement to petition to the Lieutenant Governor in Council is preserved.

Subsection 2. New sections 42a and 42b are made applicable to every agreement referred to in those sections notwithstanding the terms of the agreement or when the agreement was made.

SECTION 3. Subsection 44 (1) of the Act authorizes the making of regulations.

Subsection 1. Clauses 44 (1) (k) and (l) of the Act relate to the disposal of sewage from boats. Similar authority to make regulations is now set out in clauses 136 (3) (a) and (b) of the *Environmental Protection Act*.

New clause 44 (1) (k) of the Act will authorize the making of a regulation prescribing the method of calculating additional charges for the purpose of new section 42a.

New clause 44 (1) (l) will authorize the making of regulations classifying sewage works, water works, etc., for the purposes of the regulations.

Subsection 2. Clause 44 (1) (s) of the Act refers only to sections 23 and 24 of the Act. The re-enacted clause will refer to any section of the Act or the regulations. This will assist in identifying a sewage works under this Act and a sewage system under the *Environmental Protection Act*, as well as relating to sewage works and water works dealt with in regulations under the *Ontario Water Resources Act*.

Clause 44 (1) (t) of the Act authorizes the making of regulations related to grievances. The clause is repealed as no longer needed.

Subsections 3 and 4. Subsection 44 (1a) of the Act authorizes the making of regulations related to sections 21 to 21q (water wells) of the Act.

Subsection 5. New subsection 44 (3a) of the Act permits the defining of classes under the Act or the regulations with respect to any attribute, quality or characteristic of members of the class and authorizes the inclusion of any specified member in a class.

Notice and comment provisions are added in relation to regulations under clause 44 (1) (k) of the Act. Clause 44 (1) (k) is set out in subsection 3 (1) of the Bill.

SECTION 4. Subsections 62 (2) and (3) of the Act relate to the time when an emergency order takes effect. Subsection 62 (1) of the Act defines the term "emergency order". The rule that, except as otherwise provided, an appeal operates as a stay in the matter, is set out in section 25 of the *Statutory Powers Procedure Act*.

SECTION 5. New section 63 of the Act relates to proceedings before the Environmental Appeal Board.

The section will limit appeals to the matters set out in the notices requiring the hearings. The section will also limit the grounds that may be argued to those set out in the notices. The

Board is authorized to widen the subject-matter of a hearing and to permit an applicant to rely on other grounds. In such a case, the Board may give such directions as it considers proper.

SECTION 6. New section 64 of the Act authorizes the Environmental Appeal Board, the Minister or the Divisional Court to allow a matter in appeal before them to be carried out notwithstanding the appeal. Section 25 of the *Statutory Powers Procedure Act* provides that an appeal operates as a stay in the matter. The section sets out the grounds on which a stay may be removed.

SECTION 7. New section 65 of the Act states that the authority to make an order under the Act includes the authority to require the person to whom the order is directed to take intermediate action and procedural steps specified in the order.

Bill 51

1983

An Act to amend the Ontario Water Resources Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 4 (1) of the *Ontario Water Resources Act*, being chapter 361 of the Revised Statutes of Ontario, 1980, is amended by inserting after “Ministry” in the second line “or, subject to the approval of the Lieutenant Governor in Council, such other persons”.

s. 4 (1),
amended

2.—(1) The said Act is amended by adding thereto the following sections:

ss. 42a, 42b,
enacted

AGREEMENTS

42a. A municipality or other person that has entered or that enters into an agreement under this Act with the Crown for the provision or operation of a sewage works or a water works or the provision of sewage service or water service by the Crown shall pay to the Treasurer additional charges in respect of the provision or operation in the amount calculated in accordance with the method prescribed by the regulations notwithstanding that the additional charges may not be attributable to costs incurred for the works or service.

Overhead
charges

42b.—(1) In this section, “agreement” means an agreement under subsection 7 (2) or section 8 with respect to a supply of water or the reception, treatment and disposal of sewage.

Interpre-
tation

(2) The rates of payment provided for in an agreement may be reviewed and revised annually or, where the parties to the agreement concur, more frequently.

Review and
revision
of rates

(3) The rates of payment provided for in an agreement may be stated, and the amounts due under the agreement may be calculated and billed, on the basis of the units of measurement set out in Schedule I to the *Weights and Measures Act* (Canada).

Units of
measurement

S.C. 1970-71-
72, c. 36

Billing and
payment

↓
(4) The Crown may determine the amounts due under an agreement on an annual basis for principal, interest and operating and other costs instead of on the basis of volumes and may require payment of the amounts annually or by way of more frequent periodic payments.

Petition

(5) The provisions of an agreement that apply in respect of a petition to the Lieutenant Governor in Council in respect of a rate apply with necessary modifications in respect of an amount determined under subsection (4). ↑

Application
of
ss. 42a, 42b

(2) Sections 42a and 42b of the said Act, as enacted by subsection (1), apply in respect of every agreement referred to in those sections notwithstanding the terms of the agreement and whether or not the agreement was made before this section comes into force.

s. 44 (1)
(k, l),
re-enacted

3.—(1) Clauses 44 (1) (k) and (l) of the said Act are repealed and the following substituted therefor:

- (k) prescribing methods of calculating additional charges for the provision or operation of a sewage works or a water works or a class of either of them or the provision of sewage service or water service or a class of either of them, and such a method may require the calculation of a charge as a percentage of direct operating costs and, for the purpose, may define direct operating costs and may prescribe the percentage;
- (l) classifying sewage works, water works, sewage services and water services for the purposes of the regulations.

s. 44 (1) (s),
re-enacted;
s. 44 (1) (t),
repealed

(2) Clauses 44 (1) (s) and (t) of the said Act are repealed and the following substituted therefor:

- (s) exempting any sewage works or water works or any class of either of them from any provision of this Act or the regulations and prescribing conditions that shall apply in respect of any such exemption.

s. 44 (1a),
amended

(3) Subsection 44 (1a) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 50, section 2, is amended by adding thereto the following clauses:

- (ca) prescribing information, samples and reports that persons constructing wells shall provide during and upon completion of the constructing of the wells and specifying to whom the information, samples and reports shall be provided;

- (cb) prescribing procedures that shall be followed during and upon completion of the constructing of wells by the persons who construct the wells;
- (cc) prescribing terms that shall be deemed to be part of every contract for the construction of a well;
- (cd) prescribing and requiring the use of signs, markings and other identification of vehicles, machines and equipment used in the construction of wells.

(4) Clauses 44 (1a) (j), (k), (l), (m) and (r) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 50, section 2, are repealed and the following substituted therefor:

s. 44 (1a)
(j-m), (r),
re-enacted

- (j) prescribing the records that shall be kept and the returns of information that shall be made to the Director in respect of wells or the business of constructing wells and specifying by whom the records shall be kept and the returns shall be made, and providing for the inspection and examination of the records;
- (k) prescribing and requiring the use of methods of obtaining information to be included in records and returns of information;
- (l) respecting the examination of applicants for well contractor licences and well technician licences and renewals thereof;
- (m) prescribing requirements and standards of qualification for well contractor licences and well technician licences;
-
- (r) prescribing conditions that shall attach to well construction permits, well contractor licences and well technician licences and requiring compliance with such conditions.

(5) Section 44 of the said Act is amended by adding thereto the following subsection:

s. 44,
amended

(3a) A class under this Act or the regulations may be defined with respect to any attribute, quality or characteristic or combination thereof and may be defined to consist of or to include or exclude any specified member whether or not with the same attributes, qualities or characteristics.

Classes

Notice of
proposed
regulation

↓

(5) Before the Lieutenant Governor in Council makes a regulation under clause (1) (k), the Minister shall cause notice of the proposed regulation to be published in *The Ontario Gazette*.

Comment

(6) A notice under subsection (5) shall set out the text of the proposed regulation and shall request that comments, briefs and submissions thereon be filed in writing with the Minister within sixty days after the date of publication of the notice or within such longer period as is specified by the Minister in the notice.

Recommen-
dation of
regulation

(7) Upon expiry of the period for the filing of comments, briefs and submissions, the Minister may recommend the proposed regulation to the Lieutenant Governor in Council with or without changes in the text.

Further
notice

(8) Where the Minister intends to recommend the proposed regulation with changes in the text,

- (a) the Minister need not publish a further notice under subsection (5);
- (b) the Minister shall cause notice of the changes in the text to be published in *The Ontario Gazette*; and
- (c) the Minister shall not recommend the proposed regulation to the Lieutenant Governor in Council until at least thirty days after the date of publication of the notice under clause (b).

Amending or
repealing
regulation

(9) Subsections (5) to (8) apply to a regulation that amends or repeals a regulation.

Distribution
of regulation

(10) The Minister shall cause a copy of each regulation made under clause (1) (k) to be sent to each municipality or other person with whom the Crown has an agreement for the provision or operation of a sewage works or a water works or the provision of sewage service or water service. ↑

s. 62 (2),
re-enacted;
s. 62 (3),
repealed

4. Subsections 62 (2) and (3) of the said Act are repealed and the following substituted therefor:

Stay
on
appeal

(2) The commencement of a proceeding before the Environmental Appeal Board does not operate as a stay of an emergency order.

5.—(1) The said Act is further amended by adding thereto the following section: s. 63,
enacted

63.—(1) An applicant for a hearing by the Environmental Appeal Board shall state in the notice requiring the hearing, Contents
of notice
requiring
hearing

- (a) the portions of the order, direction, report, notice, term, condition, suspension, revocation or licence or other form of permission in respect of which the hearing is required; and
- (b) the grounds on which the applicant for the hearing intends to rely at the hearing.

(2) Except with leave of the Environmental Appeal Board, at a hearing by the Environmental Appeal Board an applicant is not entitled to appeal a portion of the order, direction, report, notice, term, condition, suspension, revocation or licence or other form of permission, or to rely on a ground, that is not stated in the applicant's notice requiring the hearing. Effect of
contents
of notice

(3) The Environmental Appeal Board may grant the leave referred to in subsection (2) where the Environmental Appeal Board is of the opinion that to do so is proper in the circumstances, and the Environmental Appeal Board may give such directions as it considers proper consequent upon the granting of the leave. Leave

(2) Section 63 of the said Act, as enacted by subsection (1), applies only in respect of a notice requiring a hearing that is served upon the Director or the Environmental Appeal Board after this section comes into force. Application
of subs. (1)

6. The said Act is further amended by adding thereto the following section: s. 64,
enacted

64.—(1) Upon application with notice by the Director, a court or other appellate tribunal before which an appeal has been commenced under this Act, in the circumstances mentioned in subsection (2), by order may remove a stay of a matter in appeal. Order
removing
stay

(2) A court or other appellate tribunal may make an order under this section where the court or other appellate tribunal is satisfied that the order is necessary or advisable to prevent or to reduce, Grounds
for order

- (a) danger to the health or safety of any person;

- (b) impairment or immediate risk of impairment of any waters or the use thereof; or
- (c) injury or damage or immediate risk of injury or damage to any property or to any plant or animal life.

s. 65,
enacted

7.—(1) The said Act is further amended by adding thereto the following section:

Interpre-
tation

65.—(1) In this section,

- (a) “make” includes issue or give;
- (b) “order” includes direction, requirement, report or notice.

Orders

(2) The authority to make an order under this Act includes the authority to require the person or body to whom the order is directed to take such intermediate action or such procedural steps or both as are related to the action required or prohibited by the order and as are specified in the order.

Application
of
subs. (1)

(2) Section 65 of the said Act, as enacted by subsection (1), applies in respect of every order made under the said Act whether or not the order was made before this section comes into force.

Commence-
ment

8.—(1) This Act, except subsections 3 (4) and (5), comes into force on the day it receives Royal Assent.

Idem

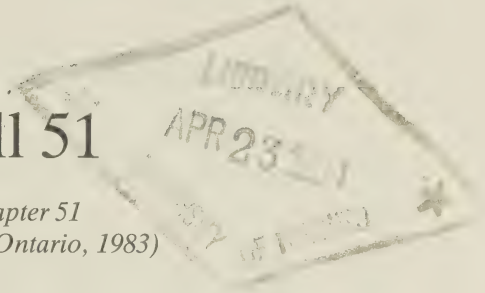
(2) Subsections 3 (4) and (5) come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

9. The short title of this Act is the *Ontario Water Resources Amendment Act, 1983*.

Bill 51

*(Chapter 51
Statutes of Ontario, 1983)*



An Act to amend the Ontario Water Resources Act

The Hon. A. S. Brandt
Minister of the Environment

<i>1st Reading</i>	June 2nd, 1983
<i>2nd Reading</i>	November 1st, 1983
<i>3rd Reading</i>	November 9th, 1983
<i>Royal Assent</i>	November 9th, 1983

Bill 51

1983

An Act to amend the Ontario Water Resources Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 4 (1) of the *Ontario Water Resources Act*, being chapter 361 of the Revised Statutes of Ontario, 1980, is amended by inserting after “Ministry” in the second line “or, subject to the approval of the Lieutenant Governor in Council, such other persons”.

s. 4 (1),
amended

2.—(1) The said Act is amended by adding thereto the following sections:

ss. 42a, 42b,
enacted

AGREEMENTS

42a. A municipality or other person that has entered or that enters into an agreement under this Act with the Crown for the provision or operation of a sewage works or a water works or the provision of sewage service or water service by the Crown shall pay to the Treasurer additional charges in respect of the provision or operation in the amount calculated in accordance with the method prescribed by the regulations notwithstanding that the additional charges may not be attributable to costs incurred for the works or service.

Overhead
charges

42b.—(1) In this section, “agreement” means an agreement under subsection 7 (2) or section 8 with respect to a supply of water or the reception, treatment and disposal of sewage.

Interpre-
tation

(2) The rates of payment provided for in an agreement may be reviewed and revised annually or, where the parties to the agreement concur, more frequently.

Review and
revision
of rates

(3) The rates of payment provided for in an agreement may be stated, and the amounts due under the agreement may be calculated and billed, on the basis of the units of measurement set out in Schedule I to the *Weights and Measures Act* (Canada).

Units of
measurement

S.C. 1970-71-
72, c. 36

Billing and
payment

(4) The Crown may determine the amounts due under an agreement on an annual basis for principal, interest and operating and other costs instead of on the basis of volumes and may require payment of the amounts annually or by way of more frequent periodic payments.

Petition

(5) The provisions of an agreement that apply in respect of a petition to the Lieutenant Governor in Council in respect of a rate apply with necessary modifications in respect of an amount determined under subsection (4).

Application
of
ss. 42a, 42b

(2) Sections 42a and 42b of the said Act, as enacted by subsection (1), apply in respect of every agreement referred to in those sections notwithstanding the terms of the agreement and whether or not the agreement was made before this section comes into force.

s. 44 (1)
(k, l),
re-enacted

3.—(1) Clauses 44 (1) (k) and (l) of the said Act are repealed and the following substituted therefor:

- (k) prescribing methods of calculating additional charges for the provision or operation of a sewage works or a water works or a class of either of them or the provision of sewage service or water service or a class of either of them, and such a method may require the calculation of a charge as a percentage of direct operating costs and, for the purpose, may define direct operating costs and may prescribe the percentage;
- (l) classifying sewage works, water works, sewage services and water services for the purposes of the regulations.

s. 44 (1) (s),
re-enacted;
s. 44 (1) (t),
repealed

(2) Clauses 44 (1) (s) and (t) of the said Act are repealed and the following substituted therefor:

- (s) exempting any sewage works or water works or any class of either of them from any provision of this Act or the regulations and prescribing conditions that shall apply in respect of any such exemption.

s. 44 (1a),
amended

(3) Subsection 44 (1a) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 50, section 2, is amended by adding thereto the following clauses:

- (ca) prescribing information, samples and reports that persons constructing wells shall provide during and upon completion of the constructing of the wells and specifying to whom the information, samples and reports shall be provided;

- (cb) prescribing procedures that shall be followed during and upon completion of the constructing of wells by the persons who construct the wells;
- (cc) prescribing terms that shall be deemed to be part of every contract for the construction of a well;
- (cd) prescribing and requiring the use of signs, markings and other identification of vehicles, machines and equipment used in the construction of wells.

(4) Clauses 44 (1a) (j), (k), (l), (m) and (r) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 50, section 2, are repealed and the following substituted therefor:

s. 44 (1a)
(j-m), (r),
re-enacted

- (j) prescribing the records that shall be kept and the returns of information that shall be made to the Director in respect of wells or the business of constructing wells and specifying by whom the records shall be kept and the returns shall be made, and providing for the inspection and examination of the records;
- (k) prescribing and requiring the use of methods of obtaining information to be included in records and returns of information;
- (l) respecting the examination of applicants for well contractor licences and well technician licences and renewals thereof;
- (m) prescribing requirements and standards of qualification for well contractor licences and well technician licences;
-
- (r) prescribing conditions that shall attach to well construction permits, well contractor licences and well technician licences and requiring compliance with such conditions.

(5) Section 44 of the said Act is amended by adding thereto the following subsections:

s. 44,
amended

(3a) A class under this Act or the regulations may be defined with respect to any attribute, quality or characteristic or combination thereof and may be defined to consist of or to include or exclude any specified member whether or not with the same attributes, qualities or characteristics.

Classes

Notice of
proposed
regulation

(5) Before the Lieutenant Governor in Council makes a regulation under clause (1) (k), the Minister shall cause notice of the proposed regulation to be published in *The Ontario Gazette*.

Comment

(6) A notice under subsection (5) shall set out the text of the proposed regulation and shall request that comments, briefs and submissions thereon be filed in writing with the Minister within sixty days after the date of publication of the notice or within such longer period as is specified by the Minister in the notice.

Recommendation of
regulation

(7) Upon expiry of the period for the filing of comments, briefs and submissions, the Minister may recommend the proposed regulation to the Lieutenant Governor in Council with or without changes in the text.

Further
notice

(8) Where the Minister intends to recommend the proposed regulation with changes in the text,

- (a) the Minister need not publish a further notice under subsection (5);
- (b) the Minister shall cause notice of the changes in the text to be published in *The Ontario Gazette*; and
- (c) the Minister shall not recommend the proposed regulation to the Lieutenant Governor in Council until at least thirty days after the date of publication of the notice under clause (b).

Amending or
repealing
regulation

(9) Subsections (5) to (8) apply to a regulation that amends or repeals a regulation.

Distribution
of regulation

(10) The Minister shall cause a copy of each regulation made under clause (1) (k) to be sent to each municipality or other person with whom the Crown has an agreement for the provision or operation of a sewage works or a water works or the provision of sewage service or water service.

s. 62 (2),
re-enacted;
s. 62 (3),
repealed

4. Subsections 62 (2) and (3) of the said Act are repealed and the following substituted therefor:

Stay
on
appeal

(2) The commencement of a proceeding before the Environmental Appeal Board does not operate as a stay of an emergency order.

5.—(1) The said Act is further amended by adding thereto the following section: s. 63,
enacted

63.—(1) An applicant for a hearing by the Environmental Appeal Board shall state in the notice requiring the hearing, Contents
of notice
requiring
hearing

- (a) the portions of the order, direction, report, notice, term, condition, suspension, revocation or licence or other form of permission in respect of which the hearing is required; and
- (b) the grounds on which the applicant for the hearing intends to rely at the hearing.

(2) Except with leave of the Environmental Appeal Board, at a hearing by the Environmental Appeal Board an applicant is not entitled to appeal a portion of the order, direction, report, notice, term, condition, suspension, revocation or licence or other form of permission, or to rely on a ground, that is not stated in the applicant's notice requiring the hearing. Effect of
contents
of notice

(3) The Environmental Appeal Board may grant the leave referred to in subsection (2) where the Environmental Appeal Board is of the opinion that to do so is proper in the circumstances, and the Environmental Appeal Board may give such directions as it considers proper consequent upon the granting of the leave. Leave

(2) Section 63 of the said Act, as enacted by subsection (1), applies only in respect of a notice requiring a hearing that is served upon the Director or the Environmental Appeal Board after this section comes into force. Application
of subs. (1)

6. The said Act is further amended by adding thereto the following section: s. 64,
enacted

64.—(1) Upon application with notice by the Director, a court or other appellate tribunal before which an appeal has been commenced under this Act, in the circumstances mentioned in subsection (2), by order may remove a stay of a matter in appeal. Order
removing
stay

(2) A court or other appellate tribunal may make an order under this section where the court or other appellate tribunal is satisfied that the order is necessary or advisable to prevent or to reduce, Grounds
for order

- (a) danger to the health or safety of any person;

- (b) impairment or immediate risk of impairment of any waters or the use thereof; or
- (c) injury or damage or immediate risk of injury or damage to any property or to any plant or animal life.

s. 65,
enacted

7.—(1) The said Act is further amended by adding thereto the following section:

Interpre-
tation

65.—(1) In this section,

- (a) “make” includes issue or give;
- (b) “order” includes direction, requirement, report or notice.

Orders

(2) The authority to make an order under this Act includes the authority to require the person or body to whom the order is directed to take such intermediate action or such procedural steps or both as are related to the action required or prohibited by the order and as are specified in the order.

Application
of
subs. (1)

(2) Section 65 of the said Act, as enacted by subsection (1), applies in respect of every order made under the said Act whether or not the order was made before this section comes into force.

Commence-
ment

8.—(1) This Act, except subsections 3 (4) and (5), comes into force on the day it receives Royal Assent.

Idem

(2) Subsections 3 (4) and (5) come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

9. The short title of this Act is the *Ontario Water Resources Amendment Act, 1983*.

Bill 52



An Act to amend the Environmental Protection Act

The Hon. K.C. Norton
Minister of the Environment

1st Reading June 2nd, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The definition of “contaminant” is extended. The effects set out in the added subclauses are now set out in clauses 80 (1) (g) and (h) in Part IX (Spills) of the Act.

Subsection 2. Clause 1 (1) (ca) is added to the Act to define “discharge” to include “add, deposit or emit”.

SECTION 2. The new section 1a relates to the discharge of a contaminant within a building or structure as a result of a discharge at another location. The section deems the discharge within the building or structure to be a discharge into the natural environment by the owner or the person who has the charge, management or control of the contaminant in the primary discharge.

SECTION 3. Section 4 of the Act authorizes the appointment of employees of the Ministry as Directors. The amendment will authorize the appointment of other persons.

SECTION 4. Subsection 13 (1) of the Act prohibits the discharge into the natural environment of a contaminant that has an effect set out in the clauses. The amendment adds two clauses to the subsection. The same clauses are in Part IX (Spills) in clauses 80 (1) (g) and (h).

SECTION 5. Subsection 14 (1) of the Act requires a person who discharges into the natural environment a contaminant that has an effect set out in the clauses to notify the Ministry. The amendment adds to the subsection the same two clauses that the Bill adds to subsection 13 (1) of the Act.

SECTION 6. Section 17 of the Act authorizes the Director to make orders for the purpose of alleviating the effect of potential contamination of the natural environment. The section is re-enacted to broaden its preventive nature.

SECTION 7. The definition of “sewage system” in Part VII of the Act, is re-enacted for clarification.

SECTION 8. Section 63 of the Act is re-enacted to add the words “except to the extent specified by the regulations”.

SECTION 9. Sections 65 and 66 of the Act deal with certificates of approval in respect of sewage systems. The re-enactment of section 65 and repeal of section 66 clarify the authority of the Director.

SECTION 10. Subsection 67 (1) of the Act prohibits the use of certain sewage systems unless a permit has been issued by the Director. Subsection 67 (3), which specifies the circumstances under which the Director is not to issue a permit, is re-enacted as subsections 67 (3), (4), (5) and (6). The re-enactment is complementary to the re-enactment of section 65 and the repeal of section 66 and to authorize the making of inspections.

Subsection 67 (7) is added to authorize the closing in of part of a sewage system before a permit is issued.

SECTION 11.—Subsection 1. Subsection 68 (1) of the Act authorizes the Director to make orders, in the circumstances set out in the clauses, to prevent the discharge of a contaminant into the natural environment. The amendment adds a clause to the subsection.

Subsection 2. Subsection 68 (2) of the Act authorizes the Minister to have work done and to charge the cost to a person who fails to comply with an order by the Director under subsection 68 (1). The amendment will authorize the Director, instead of the Minister, to make orders under subsection 68 (2).

SECTION 12. Subsection 69 (5) of the Act, which is repealed by the Bill, provides that a licence issued under the section expires twelve months after the date of its issue or renewal.

SECTION 13.—Subsection 1. Clause 70 (2) (d) of the Act relates to agreements between the Crown and municipalities to provide for inspections respecting sewage systems. The re-enactment of the subclause is complementary to the re-enactment of section 71 of the Act as set out in this Bill.

Subsection 2. New subsections 70 (4) and (5) remove the need for regulations to authorize municipalities to charge fees for inspections under section 71 of the Act and for applications for certificates of approval issued under the Part by authorizing municipalities to set the fees.

New subsection 70 (6) extends to municipalities that have entered into agreements under the section the authority to make inspections and to prescribe, charge and collect fees in respect of the full range of applications under new subsection 71 (2) of the Act as set out in this Bill.

SECTION 14. Section 71 of the Act requires payment of a fee when application is made for a consent under section 29 of the *Planning Act* or for an approval under section 36 of that Act. The section is re-enacted to include a requirement for payment of a fee on an application for authorization of a minor variance under the *Planning Act* or on such applications under the *Planning Act, 1983* or for an approval or exemption referred to in section 50 of the *Condominium Act*, and to provide for additional exemptions from payment of fees. The re-enacted section does not require affidavits and certificates of exemption now mentioned in subsections 71 (2) and (3) of the Act.

SECTION 15. Section 113 of the Act sets out measures that may be dealt with in a control order. The amendments add the power to require monitoring, recording and reporting and to require studies and reports.

SECTION 16. Section 120 of the Act deals with the Environmental Appeal Board.

The amendments provide for a hearing and decision by one member on the authorization of the chairman or the vice-chairman. The Board is also authorized to sit in two or more divisions.

SECTION 17. Subsection 122 (2) of the Act relates to stay of proceedings pending disposition of an appeal. The subsection states that only a stop order may be enforced pending final disposition of an appeal. The subsection, as set out in the Bill, would also state that an order to monitor, record and report is not stayed by the commencement of an appeal. The rule that, except as otherwise provided, an appeal operates as a stay in the matter, is set out in section 25 of the *Statutory Powers Procedure Act*.

New subsection 122 (3) of the Act states that no failure or refusal to issue, amend, vary or revoke an order is an order.

SECTION 18. New section 122a of the Act relates to proceedings before the Environmental Appeal Board.

The section will limit appeals to the matters set out in the notices requiring the hearings. The section will also limit the grounds that may be argued to those set out in the notices. The Board is authorized to widen the subject-matter of a hearing and to permit an applicant to rely on other grounds. In such a case, the Board may give such directions as it considers proper.

SECTION 19. New section 122b of the Act authorizes the Environmental Appeal Board, the Minister or the Divisional Court to allow a matter in appeal before them to be carried out notwithstanding the appeal. Section 25 of the *Statutory Powers Procedure Act* provides that an appeal operates as a stay in the matter. The section sets out the grounds on which a stay may be removed.

SECTION 20. Subsection 127 (1) of the Act deals with the powers of inspection of a provincial officer. New subsection 127 (1a) will authorize a provincial officer to detain or remove things until the inspections are completed.

SECTION 21. Clause 3 (j) of the Act authorizes the Minister, with the approval of the Lieutenant Governor in Council, to enter into agreements relating to the protection or conservation of the natural environment. New section 134a will enable municipalities to carry out such agreements with the Minister.

SECTION 22. New section 134b is added to the Act to prohibit dismissal, discipline or intimidation of employees by an employer related to the enforcement of the Act or the regulations. Complaints respecting contraventions of the section will be dealt with by the Ontario Labour Relations Board.

SECTION 23.—Subsection 1. Section 136 of the Act authorizes the making of regulations. The term “source of contaminant” is defined in subsection 1 (1) of the Act as “anything that adds to, emits or discharges into the natural environment any contaminant”.

Subsection 2. Subsection 136 (5) of the Act authorizes the making of regulations related to Part VII, Sewage Systems.

The re-enactment of clause 136 (5) (d) is complementary to the re-enactment of section 63 of the Act.

Subsection 3. Clause 136 (5) (i) of the Act authorizes the making of regulations providing for the issue and renewal of licences and the fees therefor. Fees for licences under Part VII will be prescribed under new clause 136 (5) (k) set out in the Bill.

Subsection 4. Clause 136 (5) (k) is re-enacted to refer to the method of calculation of fees instead of rates of fees.

The re-enactment of clause 136 (5) (m) is complementary to the re-enactment of section 71 of the Act in this Bill.

SECTION 24. Subsection 137 (3) of the Act permits the defining of classes under the Act or the regulations with respect to any attribute, quality or characteristic. The subsection is re-enacted for clarification.

Bill 52

1983

An Act to amend the Environmental Protection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (c) of the *Environmental Protection Act*, being chapter 141 of the Revised Statutes of Ontario, 1980, is amended by striking out “or” at the end of subclause (iv) and by adding thereto the following subclauses: s. 1 (1) (c),
amended

(vi) cause loss or enjoyment of normal use of property, or

(vii) interfere with the normal conduct of business.

(2) Subsection 1 (1) of the said Act is amended by adding thereto the following clause: s. 1 (1),
amended

(ca) “discharge”, when used as a verb, includes add, deposit or emit and, when used as a noun, includes addition, deposit or emission.

2. The said Act is amended by adding thereto the following section: s. 1a,
enacted

1a. A contaminant that is discharged into the air within a building or structure as a result of the discharge of the same or another contaminant at a location not within the building or structure shall be deemed to be discharged into the natural environment by the owner or the person who has the charge, management or control of the contaminant discharged at the location not within the building or structure. Secondary
discharge
within
building

3. Subsection 4 (1) of the said Act is amended by inserting after “Ministry” in the second line “or, subject to the approval of the Lieutenant Governor in Council, such other persons”. s. 4 (1),
amended

s. 13 (1),
amended

4. Subsection 13 (1) of the said Act is amended by striking out “or” at the end of clause (e) and by adding thereto the following clauses:

- (g) causes or is likely to cause loss of enjoyment of normal use of property; or
- (h) interferes or is likely to interfere with the normal conduct of business.

s. 14 (1),
amended

5. Subsection 14 (1) of the said Act is amended by striking out “or” at the end of clause (e) and by adding thereto the following clauses:

- (g) causes or is likely to cause loss of enjoyment of normal use of property; or
- (h) interferes or is likely to interfere with the normal conduct of business.

s. 17,
re-enacted

6. Section 17 of the said Act is repealed and the following substituted therefor:

Order by
Director re
preventive
measures

17.—(1) The Director, in the circumstances mentioned in subsection (2), by a written order may require a person who owns or who has management or control of an undertaking or property to do any one or more of the following:

1. To have available at all times, or during such periods of time as are specified in the order, the equipment, material and personnel specified in the order at the locations specified in the order.
2. To obtain, construct and install or modify the devices, equipment and facilities specified in the order at the locations and in the manner specified in the order.
3. To implement procedures specified in the order.
4. To take all steps necessary in order that procedures specified in the order will be implemented in the event that a contaminant is discharged into the natural environment from the undertaking or property.

Grounds
for order

(2) The Director may make an order under this section where the Director is of the opinion, upon reasonable and probable grounds,

- (a) that the nature of the undertaking or of anything on or in the property is such that if a contaminant is discharged into the natural environment from the undertaking or property, the contaminant will result or is likely to result in an effect mentioned in clause 1 (1) (c); and
- (b) that the requirements specified in the order are necessary or advisable in order,
 - (i) to prevent or reduce the risk of the discharge of the contaminant into the natural environment from the undertaking or property, or
 - (ii) to prevent, decrease or eliminate an effect mentioned in clause 1 (1) (c) that will result or that is likely to result from the discharge of the contaminant into the natural environment from the undertaking or property.

7. Section 62 of the said Act is repealed and the following substituted therefor: s. 62,
re-enacted

62. In this Part, “sewage system” means,

Interpre-
tation

- (a) a privy, a privy-vault, a holding tank or a toilet other than a toilet to which regulations made under clause 44 (2) (a) of the *Ontario Water Resources Act* apply; R.S.O. 1980,
c. 361
- (b) a sewage works from which sewage is not to drain or be discharged directly or indirectly into a ditch, drain or storm sewer or a well, lake, river, pond, spring, stream, reservoir or other water (other than ground water) or watercourse;
- (c) a privately-owned sewage works serving only five or fewer private residences; or
- (d) any other facility or land for the reception, treatment, transportation or disposal of sewage,

but does not include,

- (e) a sewage works to which subsection 24 (1) of the *Ontario Water Resources Act* applies;
- (f) a privately-owned sewage works designed for the partial treatment of sewage that is to drain or be discharged into a sanitary sewer;

- (g) a sewage works the main purpose of which is to drain agricultural lands;
- (h) a drainage works under the *Cemeteries Act*, the *Drainage Act*, the *Public Transportation and Highway Improvement Act* or *The Railways Act*;
- (i) plumbing as defined in the regulations under the *Ontario Water Resources Act*; or
- (j) a holding tank to which regulations made under clause 136 (3) (a) or (b) apply.

s. 63,
re-enacted

8. Section 63 of the said Act is repealed and the following substituted therefor:

Application
of
R.S.O. 1980,
c. 361

63. A sewage system that is subject to this Part is not subject to the *Ontario Water Resources Act*, except to the extent specified by the regulations.

s. 65,
re-enacted;
s. 66,
repealed

9. Sections 65 and 66 of the said Act are repealed and the following substituted therefor:

Certificate
of
approval

65.—(1) Subject to subsection (2), a person who applies in accordance with this Act and the regulations for a certificate of approval under this Part and who,

- (a) submits to the Director the plans, specifications and information required by the Director;
- (b) meets the requirements of this Part and the regulations; and
- (c) pays the fee prescribed under this Act,

is entitled to be issued the certificate of approval.

Criteria

(2) The Director may refuse to issue a certificate of approval under this Part where,

- (a) the proposed construction, establishment, operation, installation, enlargement, extension or alteration of a sewage system will not comply with this Act or the regulations;
- (b) the application therefor is incomplete;
- (c) the plans, specifications and information required by or under this Act in respect of the proposed construction, establishment, operation, installation,

enlargement, extension or alteration have not been submitted or are incomplete;

- (d) the Director is of the opinion, upon reasonable and probable grounds, that the construction, establishment, operation, installation, enlargement, extension or alteration of the sewage system,
 - (i) will create or is likely to create a nuisance,
 - (ii) will not be or is not likely to be in the public interest,
 - (iii) will result or is likely to result in a hazard to the health or safety of any person, or
 - (iv) will result or is likely to result in impairment of the quality of the natural environment for any use that can be made of it; or
- (e) any fees due are unpaid.

(3) The Director may issue a certificate of approval under this Part where the proposed construction, establishment, operation, installation, enlargement, extension or alteration of a sewage system does not comply in all respects with this Act and the regulations but the Director is of the opinion, upon reasonable and probable grounds,

Relief from
strict
compliance

- (a) that the non-compliance is for practical purposes unavoidable;
- (b) that the intent of this Part and the regulations is not offended; and
- (c) that the construction, establishment, operation, installation, enlargement, extension or alteration of the sewage system,
 - (i) will not create a nuisance,
 - (ii) will not be contrary to the public interest,
 - (iii) will not result in a hazard to the health or safety of any person, and
 - (iv) will not result in impairment of the quality of the natural environment for any use that can be made of it.

Terms
and
conditions

(4) The Director may alter a term or condition to which a certificate of approval under this Part is subject or may attach terms and conditions to a certificate of approval under this Part where the Director is of the opinion, upon reasonable and probable grounds, that the alteration or the terms and conditions are necessary or advisable to prevent, eliminate or ameliorate,

- (a) a nuisance;
- (b) detriment to the public interest;
- (c) a hazard to the health or safety of any person; or
- (d) impairment of the quality of the natural environment for any use that can be made of it,

that will or is likely to result from the construction, establishment, operation, installation, enlargement, extension or alteration of the sewage system.

Revocation
of term or
condition

(5) The Director may revoke a term or condition to which a certificate of approval under this Part is subject where the Director is of the opinion, upon reasonable and probable grounds, that the term or condition is not necessary in order to prevent, eliminate or ameliorate a nuisance, detriment to the public interest, a hazard to the health or safety of any person or impairment of the natural environment for any use that can be made of it.

Suspension
or
revocation

(6) The Director may suspend or revoke a certificate of approval under this Part,

- (a) where the Director is of the opinion, upon reasonable and probable grounds, that the construction, establishment, operation, installation, enlargement, extension or alteration of the sewage system,
 - (i) will create or is likely to create a nuisance,
 - (ii) will not be or is not likely to be in the public interest,
 - (iii) will result or is likely to result in a hazard to the health or safety of any person, or
 - (iv) will result or is likely to result in impairment of the quality of the natural environment for any use that can be made of it; or

- (b) where the certificate of approval was issued on mistaken or false information.

10. Subsection 67 (3) of the said Act is repealed and the following substituted therefor: s. 67 (3),
re-enacted

(3) The Director shall not issue a permit for the use or operation of a sewage system that does not comply with a certificate of approval issued in respect of the sewage system or that contravenes this Act or the regulations until the sewage system is altered so that, in the opinion of the Director, it will not create a nuisance, be contrary to the public interest or result in a hazard to the health or safety of any person. Refusal
of
permit
for non-
compliance

(4) Subsection (3) does not apply where the Director is of the opinion that, in the circumstances, the use or operation of the sewage system will not create a nuisance, be contrary to the public interest or result in a hazard to the health or safety of any person. Exception

(5) The Director shall not issue a permit for the use or operation of a sewage system in respect of which a certificate of approval required under this Part has not been issued if the Director is of the opinion upon reasonable and probable grounds that the use or operation of the sewage system or part thereof may create a nuisance, is not in the public interest or may result in a hazard to the health or safety of any person, until the sewage system or the part thereof is altered so that, in the opinion of the Director, it will not create a nuisance, be contrary to the public interest or result in a hazard to the health or safety of any person. Refusal of
permit for
lack of
certificate

(6) The Director or a provincial officer may inspect a sewage system for the purposes of subsections (3), (4) and (5). Inspection

(7) Subsection (2) does not apply to prevent the closing in of part of a sewage system upon the written authorization of a provincial officer or the Director, and a provincial officer who has inspected the part of the sewage system or the Director may give such a written authorization. Authority
to close
in part
of sewage
system

11.—(1) Subsection 68 (1) of the said Act is amended by striking out “or” at the end of clause (c), by adding “or” at the end of clause (d) and by adding thereto the following clause: s. 68 (1),
amended

- (e) constructs, establishes, installs, enlarges, extends or alters a building on or a structure on or in a parcel of land on or in which a sewage system is located, or alters a parcel of land on or in which a sewage system

is located, so that the operation or effectiveness of the sewage system is impaired or is likely to be impaired.

s. 68 (2),
amended

(2) Subsection 68 (2) of the said Act is amended by striking out “Minister” in the second line and inserting in lieu thereof “Director”.

s. 69 (5),
repealed

12. Subsection 69 (5) of the said Act is repealed.

s. 70 (2)
(d) (ii),
re-enacted

13.—(1) Subclause 70 (2) (d) (ii) of the said Act is repealed and the following substituted therefor:

(ii) with respect to applications mentioned in subsection 71 (2); or

.

s. 70,
amended

(2) Section 70 of the said Act is amended by adding thereto the following subsections:

Fees

(4) A municipality that has entered into an agreement under this section may prescribe fees or the method of calculation of fees under section 71 and for applications for certificates of approval issued by a Director designated in the agreement but a fee therefor under this subsection shall not be less than the fee therefor under the regulations.

Idem

(5) A municipality may charge fees in accordance with the regulations or subsection (4) for the purposes of section 71 and for applications for certificates of approval and permits under this Part.

Existing
agreements

(6) A municipality that has entered into an agreement under subsection (2) before this subsection comes into force has authority to carry out inspections respecting sewage systems under subclause (2) (d) (ii) and to prescribe, charge and collect fees under subsections (4) and (5) in respect thereof.

s. 71,
re-enacted

14. Section 71 of the said Act is repealed and the following substituted therefor:

Fees re
land use
applications,
interpre-
tation

71.—(1) In this section, “immediate family” means the child, son-in-law, daughter-in-law, parent, stepchild, grandchild or grandparent of an applicant or a person to whom the applicant stands in the place of a parent.

Where fee
payable

(2) An applicant,

- (a) for a consent under section 29 of the *Planning Act* or under section 52 of the *Planning Act, 1983*; R.S.O. 1980,
c. 379
1983, c. 1
- (b) for approval of a plan of subdivision under section 36 of the *Planning Act* or under section 50 of the *Planning Act, 1983*;
- (c) for authorization of a minor variance under section 49 of the *Planning Act* or under section 44 of the *Planning Act, 1983*; or
- (d) for an approval or exemption referred to in section 50 of the *Condominium Act*, R.S.O. 1980,
c. 84

shall pay to the municipality that has jurisdiction in the area where the land is situate the fee referred to in subsection 70 (5) or, where no municipality has jurisdiction under this Part in the area, shall pay to the Treasurer of Ontario a fee in accordance with the regulations.

(3) No fee is payable under subsection (2) in respect of, Exemption

- (a) in the case of an application for a consent under section 29 of the *Planning Act* or under section 52 of the *Planning Act, 1983*, each parcel of land that the applicant proposes to retain or otherwise deal with,
 - (i) that is more than four hectares in area,
 - (ii) for which a sewage works has been approved under section 24 of the *Ontario Water Resources Act*, or a predecessor of that Act, to serve the parcel of land, or R.S.O. 1980,
c. 361
 - (iii) that is part of the land on which the owner thereof resides and from which he derives his chief source of income by farming, where no person other than the applicant and one or more members of his immediate family are parties to the transaction in respect of which the application is made;
- (b) in the case of an application under section 36 of the *Planning Act* or under section 50 of the *Planning Act, 1983*,
 - (i) each lot that is more than four hectares in area on the proposed plan of subdivision, or

R.S.O. 1980,
c. 361

- (ii) each lot that will be served by a sewage works in respect of which an application has been or will be made for approval or that has been approved under section 24 of the *Ontario Water Resources Act* or a predecessor of that Act;

R.S.O. 1980,
c. 379
1983, c. 1

- (c) in the case of an application for authorization of a minor variance under section 49 of the *Planning Act* or under section 44 of the *Planning Act, 1983*, each parcel of land in respect of which the application is made for which a sewage works has been approved under section 24 of the *Ontario Water Resources Act* or a predecessor of that Act to serve the parcel of land;

R.S.O. 1980,
c. 84

- (d) in the case of an application for an approval or exemption referred to in section 50 of the *Condominium Act*, each unit that will be served by a sewage works in respect of which an application has been or will be made for approval or that has been approved under section 24 of the *Ontario Water Resources Act*, or a predecessor of that Act; or

- (e) a parcel, lot or unit of land that is exempt by the regulations.

Application
not to be
granted
until fee
paid

- (4) An application described in subsection (2) shall not be granted unless the person to whom the application is made is satisfied that the fee referred to in subsection (2) has been paid or that no fee is payable.

s. 113,
amended

15.—(1) Section 113 of the said Act is amended by striking out “and” at the end of clause (d) and by adding thereto the following clauses:

- (f) to monitor and record, both in the manner specified in the order, the discharge into the natural environment of the contaminant specified in the order and to report thereon to the Director;
- (g) to study and to report to the Director upon,
 - (i) measures to control the discharge into the natural environment of the contaminant specified in the order,
 - (ii) the effects of the discharge into the natural environment of the contaminant specified in the order,

- (iii) the natural environment into which the contaminant specified in the order is being or is likely to be discharged; and
- (h) to report to the Director in respect of fuel, materials and methods of production used and intended to be used, and the wastes that will or are likely to be generated.

(2) The said section 113 is further amended by adding thereto the following subsection:

s. 113,
amended

(2) A person required under subsection (1) to study and to report to the Director on a matter shall report to the Director in the manner, at the times and with the information specified by the Director in the order.

Report to
Director

16. Subsections 120 (5) and (6) of the said Act are repealed and the following substituted therefor:

s. 120 (5, 6),
re-enacted

(5) The Board may sit in two or more divisions simultaneously so long as a quorum of the Board is present in each division.

Board
may sit
in divisions

(6) The chairman or the vice-chairman may authorize one member of the Board to hear and determine any matter and, for the purpose, the member has all the jurisdiction and powers of the Board.

One member
may hear and
determine
matter

17. Subsection 122 (2) of the said Act is repealed and the following substituted therefor:

s. 122 (2),
re-enacted

(2) The commencement of a proceeding before the Board does not operate as a stay of a stop order or of an order to monitor, record and report that is a control order or a part of a control order.

Stay
on
appeal

(3) No failure or refusal to issue, amend, vary or revoke an order is an order.

Failure or
refusal
to issue,
etc., order

18.—(1) The said Act is further amended by adding thereto the following section:

s. 122a,
enacted

122a.—(1) An applicant for a hearing by the Board shall state in the notice requiring the hearing,

Contents
of notice
requiring
hearing

- (a) the portions of the order, direction, term, condition, suspension, revocation or licence or other form of permission in respect of which the hearing is required; and

- (b) the grounds on which the applicant for the hearing intends to rely at the hearing.

Effect of
contents of
notice

(2) Except with leave of the Board, at a hearing by the Board an applicant is not entitled to appeal a portion of the order, direction, term, condition, suspension, revocation or licence or other form of permission, or to rely on a ground, that is not stated in the applicant's notice requiring the hearing.

Leave by
Board

(3) The Board may grant the leave referred to in subsection (2) where the Board is of the opinion that to do so is proper in the circumstances, and the Board may give such directions as the Board considers proper consequent upon the granting of the leave.

Application
of subs. (1)

(2) Section 122a of the said Act, as enacted by subsection (1), applies only in respect of a notice requiring a hearing that is served upon the Director or the Environmental Appeal Board after this section comes into force.

s. 122b,
enacted

19. The said Act is further amended by adding thereto the following section:

Order
removing
stay

122b.—(1) Upon application with notice by the Director, a court or other appellate tribunal before which an appeal has been commenced under this Act, in the circumstances mentioned in subsection (2), by order may remove a stay of a matter in appeal.

Grounds
for order

(2) A court or other appellate tribunal may make an order under this section where the court or other appellate tribunal is satisfied that the order is necessary or advisable to prevent or to reduce a hazard to the health or safety of any person or to prevent or reduce impairment of the natural environment for any use that can be made of it.

s. 127,
amended

20. Section 127 of the said Act is amended by adding thereto the following subsection:

Detention
or removal
for testing

(1a) A provincial officer may detain any thing at the place where he finds it or may remove the thing or cause it to be removed to another place until the surveys, examinations, investigations, tests and inquiries in respect of the thing that the provincial officer is authorized to make or require to be made are completed.

s. 134a,
enacted

21. The said Act is further amended by adding thereto the following section:

134a. A municipality may enter into an agreement with the Minister under clause 3 (j) and a municipality that enters into such an agreement has all the powers necessary to carry out the agreement.

Agreement
by
municipality

22. The said Act is further amended by adding thereto the following section: s. 134b,
enacted

134b.—(1) In this section, “Board” means the Ontario Labour Relations Board. Interpre-
tation

- (2) No employer shall, Unjust
dismissal
- (a) dismiss an employee;
 - (b) discipline an employee;
 - (c) penalize an employee; or
 - (d) coerce or intimidate or attempt to coerce or intimidate an employee,

because the employee has complied or may comply with this Act or the regulations or an order, term or condition, certificate of approval, licence, permit or direction under this Act or because the employee has sought or may seek the enforcement of this Act or the regulations or has given or may give information to the Ministry or a provincial officer or has been or may be called upon to testify in any proceeding related to this Act or the regulations.

(3) A person complaining of a contravention of subsection (2) may file the complaint in writing with the Board. Complaint

- (4) Where a complaint is filed in writing with the Board, Where
complaint
referred to
O.L.R.B.
- (a) the Board may authorize a labour relations officer to inquire into the complaint; or
 - (b) the Board may inquire into the complaint.

(5) A labour relations officer who is authorized to inquire into the complaint shall make his inquiry forthwith and shall endeavour to effect a settlement of the matter complained of and shall report the results of his inquiry and endeavours to the Board. Labour
relations
officer

(6) Where the labour relations officer is unable to effect a settlement of the matter complained of, the Board may inquire into the complaint. Where
settlement
not reached

Inquiry by
O.L.R.B.

(7) Where the Board inquires into the complaint and is satisfied that an employer has contravened subsection (2), the Board shall determine what, if anything, the employer shall do or refrain from doing with respect thereto.

Determi-
nation

(8) A determination under subsection (7) may include, but is not limited to, one or more of,

- (a) an order directing the employer to cease doing the act or acts complained of;
- (b) an order directing the employer to rectify the act or acts complained of; or
- (c) an order directing the employer to reinstate in employment the complainant, with or without compensation, or to compensate in lieu of hiring or reinstatement for loss of earnings or other employment benefits in an amount that may be assessed by the Board against the employer.

Application

(9) A determination by the Board under subsection (7) applies notwithstanding a provision of an agreement.

Burden of
proof

(10) On an inquiry under this section, the burden of proof that an employer did not contravene subsection (2) lies upon the employer.

Failure
to comply

(11) Where there is a failure to comply with a term of the determination made under subsection (7), the complainant, after the expiration of fourteen days from the date of the release of the determination by the Board or from the date provided in the determination for compliance, whichever is later, may notify the Board in writing of the failure.

Filing of
determi-
nation

(12) Where the Board receives notice in accordance with subsection (11), the Board shall file in the office of the Registrar of the Supreme Court a copy of the determination, exclusive of the reasons therefor, if any, and the determination shall be entered in the same way as a judgment or order of the court and is enforceable as such.

Compliance
with
settlement

(13) Where the matter complained of has been settled, whether through the endeavours of the labour relations officer or otherwise, and the terms of the settlement have been put in writing and signed, the settlement is binding and shall be complied with according to its terms, and a complaint that a settlement has not been complied with shall be deemed to be a complaint under subsection (3).

(14) The *Labour Relations Act* and the regulations under that Act apply with necessary modifications in respect of a proceeding under subsections (2) to (13). Application of R.S.O. 1980, c. 228

(15) For the purposes of subsections (2) to (14), an act mentioned in subsection (2) that is performed on behalf of an employer shall be deemed to be the act of the employer. Act performed on behalf of employer

23.—(1) Subsection 136 (1) of the said Act is amended by adding thereto the following clause: s. 136 (1), amended

- (aa) requiring the persons responsible for sources of contaminants in a class of sources of contaminants to monitor, record and report to the Ministry or to the persons specified in the regulations on the sources of contaminants including, but not limited to, fuel, materials and methods of production used and intended to be used, the wastes and contaminants that will or are likely to be generated, the natural environment that may be affected by the discharge of the contaminants and the effects of the discharge of the contaminants, and to perform and report to the Ministry on research respecting methods of reducing or preventing the generation of wastes and contaminants from the sources of contaminants.

(2) Clause 136 (5) (d) of the said Act is repealed and the following substituted therefor: s. 136 (5) (d), re-enacted

- (d) specifying sewage systems or classes of sewage systems that shall be subject to provisions of the *Ontario Water Resources Act*, classifying sewage systems for the purpose and specifying the provisions of that Act to which such sewage systems or classes of sewage systems shall be subject. R.S.O. 1980, c. 361

(3) Clause 136 (5) (i) of the said Act is amended by striking out “and the fees therefor” in the first and second lines. s. 136 (5) (i), amended

(4) Clauses 136 (5) (k) and (m) of the said Act are repealed and the following substituted therefor: s. 136 (5) (k, m), re-enacted

- (k) prescribing fees or the method of calculation of fees and the procedure for payment under section 71 and for applications for certificates of approval, permits and licences issued by a Director;

- (m) exempting applicants referred to in section 71 from payment of fees under that section in respect of a

specified parcel, lot or unit of land or in respect of a specified class or classes thereof, and classifying parcels, lots or units of land for the purpose.

s. 137 (3),
re-enacted

24. Subsection 137 (3) of the said Act is repealed and the following substituted therefor:

Classes

(3) A class under this Act or the regulations may be defined with respect to any attribute, quality or characteristic or combination thereof and may be defined to consist of or to include or exclude any specified member whether or not with the same attributes, qualities or characteristics.

Commence-
ment

25. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

26. The short title of this Act is the *Environmental Protection Amendment Act, 1983*.

1100328
MR 23 51
Bill 52

**An Act to amend the
Environmental Protection Act**

The Hon. K.C. Norton
Minister of the Environment

<i>1st Reading</i>	June 2nd, 1983
<i>2nd Reading</i>	November 8th, 1983
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The definition of “contaminant” is extended. The effects set out in the added subclauses are now set out in clauses 80 (1) (g) and (h) in Part IX (Spills) of the Act.

Subsection 2. Clause 1 (1) (ca) is added to the Act to define “discharge” to include “add, deposit or emit”.

SECTION 2. The new section 1a relates to the discharge of a contaminant within a building or structure as a result of a discharge in another building or structure. The section deems the discharge within the building or structure to be a discharge into the natural environment by the owner or the person who has the charge, management or control of the contaminant in the primary discharge.

SECTION 3. Section 4 of the Act authorizes the appointment of employees of the Ministry as Directors. The amendment will authorize the appointment of other persons.

SECTION 4. Subsection 13 (1) of the Act prohibits the discharge into the natural environment of a contaminant that has an effect set out in the clauses. The amendment adds two clauses to the subsection. The same clauses are in Part IX (Spills) in clauses 80 (1) (g) and (h).

SECTION 5. Subsection 14 (1) of the Act requires a person who discharges into the natural environment a contaminant that has an effect set out in the clauses to notify the Ministry. The amendment adds to the subsection the same two clauses that the Bill adds to subsection 13 (1) of the Act.

SECTION 6. Section 17 of the Act authorizes the Director to make orders for the purpose of alleviating the effect of potential contamination of the natural environment. The section is re-enacted to broaden its preventive nature.

SECTION 7. The definition of “sewage system” in Part VII of the Act, is re-enacted for clarification.

SECTION 8. Section 63 of the Act is re-enacted to add the words “except to the extent specified by the regulations”.

SECTION 9. Sections 65 and 66 of the Act deal with certificates of approval in respect of sewage systems. The re-enactment of section 65 and repeal of section 66 clarify the authority of the Director.

SECTION 10. Subsection 67 (1) of the Act prohibits the use of certain sewage systems unless a permit has been issued by the Director. Subsection 67 (3), which specifies the circumstances under which the Director is not to issue a permit, is re-enacted as subsections 67 (3), (4), (5) and (6). The re-enactment is complementary to the re-enactment of section 65 and the repeal of section 66 and to authorize the making of inspections.

Subsection 67 (7) is added to authorize the closing in of part of a sewage system before a permit is issued.

SECTION 11.—Subsection 1. Subsection 68 (1) of the Act authorizes the Director to make orders, in the circumstances set out in the clauses, to prevent the discharge of a contaminant into the natural environment. The amendment adds a clause to the subsection.

Subsection 2. Subsection 68 (2) of the Act authorizes the Minister to have work done and to charge the cost to a person who fails to comply with an order by the Director under subsection 68 (1). The amendment will authorize the Director, instead of the Minister, to make orders under subsection 68 (2).

SECTION 12. Subsection 69 (5) of the Act, which is repealed by the Bill, provides that a licence issued under the section expires twelve months after the date of its issue or renewal.

SECTION 13.—Subsection 1. Clause 70 (2) (d) of the Act relates to agreements between the Crown and municipalities to provide for inspections respecting sewage systems. The re-enactment of the subclause is complementary to the re-enactment of section 71 of the Act as set out in this Bill.

Subsection 2. New subsections 70 (4) and (5) remove the need for regulations to authorize municipalities to charge fees for inspections under section 71 of the Act and for applications for certificates of approval issued under the Part by authorizing municipalities to set the fees.

New subsection 70 (6) extends to municipalities that have entered into agreements under the section the authority to make inspections and to prescribe, charge and collect fees in respect of the full range of applications under new subsection 71 (2) of the Act as set out in this Bill.

SECTION 14. Section 71 of the Act requires payment of a fee when application is made for a consent under section 29 of the *Planning Act* or for an approval under section 36 of that Act. The section is re-enacted to include a requirement for payment of a fee on an application for authorization of a minor variance under the *Planning Act* or on such applications under the *Planning Act, 1983* or for an approval or exemption referred to in section 50 of the *Condominium Act*, and to provide for additional exemptions from payment of fees. The re-enacted section does not require affidavits and certificates of exemption now mentioned in subsections 71 (2) and (3) of the Act.

SECTION 15. Section 113 of the Act sets out measures that may be dealt with in a control order. The amendments add the power to require monitoring, recording and reporting and to require studies and reports.

SECTION 16. Section 120 of the Act deals with the Environmental Appeal Board.

The amendments provide for a hearing and decision by one member on the authorization of the chairman or the vice-chairman. The Board is also authorized to sit in two or more divisions.

SECTION 17. Subsection 122 (2) of the Act relates to stay of proceedings pending disposition of an appeal. The subsection states that only a stop order may be enforced pending final disposition of an appeal. The subsection, as set out in the Bill, would also state that an order to monitor, record and report is not stayed by the commencement of an appeal. The rule that, except as otherwise provided, an appeal operates as a stay in the matter, is set out in section 25 of the *Statutory Powers Procedure Act*.

New subsection 122 (3) of the Act states that no failure or refusal to issue, amend, vary or revoke an order is an order.

SECTION 18. New section 122a of the Act relates to proceedings before the Environmental Appeal Board.

The section will limit appeals to the matters set out in the notices requiring the hearings. The section will also limit the grounds that may be argued to those set out in the notices. The Board is authorized to widen the subject-matter of a hearing and to permit an applicant to rely on other grounds. In such a case, the Board may give such directions as it considers proper.

SECTION 19. New section 122b of the Act authorizes the Environmental Appeal Board, the Minister or the Divisional Court to allow a matter in appeal before them to be carried out notwithstanding the appeal. Section 25 of the *Statutory Powers Procedure Act* provides that an appeal operates as a stay in the matter. The section sets out the grounds on which a stay may be removed.

SECTION 20.—Subsection 1. Subsection 127 (1) of the Act deals with the powers of inspection of a provincial officer. New subsection 127 (1a) will authorize a provincial officer to detain or remove things until the inspections are completed.

▶ New subsections (1b) and (1c) provide for the release of a thing detained by a provincial officer. An order for the release may be made by a justice of the peace, and the order or refusal to make the order may be appealed from in the same manner as in a proceeding under the *Provincial Offences Act*.

Subsection 2. Subsection 127 (2) of the Act empowers a justice of the peace to make an order authorizing a provincial officer to enter property. The amendment widens the ambit of the order to include authority to detain or remove any thing. ▶

SECTION 21. Clause 3 (j) of the Act authorizes the Minister, with the approval of the Lieutenant Governor in Council, to enter into agreements relating to the protection or conservation of the natural environment. New section 134a will enable municipalities to carry out such agreements with the Minister.

SECTION 22. New section 134b is added to the Act to prohibit dismissal, discipline or intimidation of employees by an employer related to the enforcement of the Acts listed in the section or the regulations under those Acts. Complaints respecting contraventions of the section will be dealt with by the Ontario Labour Relations Board.

SECTION 23.—Subsection 1. Section 136 of the Act authorizes the making of regulations. The term “source of contaminant” is defined in subsection 1 (1) of the Act as “anything that adds to, emits or discharges into the natural environment any contaminant”.

Subsection 2. Subsection 136 (5) of the Act authorizes the making of regulations related to Part VII, Sewage Systems.

The re-enactment of clause 136 (5) (d) is complementary to the re-enactment of section 63 of the Act.

Subsection 3. Clause 136 (5) (i) of the Act authorizes the making of regulations providing for the issue and renewal of licences and the fees therefor. Fees for licences under Part VII will be prescribed under new clause 136 (5) (k) set out in the Bill.

Subsection 4. Clause 136 (5) (k) is re-enacted to refer to the method of calculation of fees instead of rates of fees.

The re-enactment of clause 136 (5) (m) is complementary to the re-enactment of section 71 of the Act in this Bill.

SECTION 24. Subsection 137 (3) of the Act permits the defining of classes under the Act or the regulations with respect to any attribute, quality or characteristic. The subsection is re-enacted for clarification.

▶ **SECTION 25.** New section 149 of the Act states that the authority to make an order under the Act includes the authority to require the intermediate action and procedural steps specified in the order. ▶

Bill 52

1983

An Act to amend the Environmental Protection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (c) of the *Environmental Protection Act*, being chapter 141 of the Revised Statutes of Ontario, 1980, is amended by striking out “or” at the end of subclause (iv) and by adding thereto the following subclauses: s. 1 (1) (c),
amended

(vi) cause loss of enjoyment of normal use of property, or

(vii) interfere with the normal conduct of business.

(2) Subsection 1 (1) of the said Act is amended by adding thereto the following clause: s. 1 (1),
amended

(ca) “discharge”, when used alone as a verb, includes add, deposit or emit and, when used alone as a noun, includes addition, deposit or emission.

2. The said Act is amended by adding thereto the following section: s. 1a,
enacted

1a. A contaminant that is discharged into the air within a building or structure as a result of the discharge of the same or another contaminant in another building or structure shall be deemed to be discharged into the natural environment by the owner or the person who has the charge, management or control of the contaminant discharged in the other building or structure. Secondary
discharge
within
building

3. Subsection 4 (1) of the said Act is amended by inserting after “Ministry” in the second line “or, subject to the approval of the Lieutenant Governor in Council, such other persons”. s. 4 (1),
amended

s. 13 (1),
amended

4. Subsection 13 (1) of the said Act is amended by striking out “or” at the end of clause (e) and by adding thereto the following clauses:

- (g) causes or is likely to cause loss of enjoyment of normal use of property; or
- (h) interferes or is likely to interfere with the normal conduct of business.

s. 14 (1),
amended

5. Subsection 14 (1) of the said Act is amended by striking out “or” at the end of clause (e) and by adding thereto the following clauses:

- (g) causes or is likely to cause loss of enjoyment of normal use of property; or
- (h) interferes or is likely to interfere with the normal conduct of business.

s. 17,
re-enacted

6. Section 17 of the said Act is repealed and the following substituted therefor:

Order by
Director re
preventive
measures

17.—(1) The Director, in the circumstances mentioned in subsection (2), by a written order may require a person who owns or who has management or control of an undertaking or property to do any one or more of the following:

1. To have available at all times, or during such periods of time as are specified in the order, the equipment, material and personnel specified in the order at the locations specified in the order.
2. To obtain, construct and install or modify the devices, equipment and facilities specified in the order at the locations and in the manner specified in the order.
3. To implement procedures specified in the order.
4. To take all steps necessary in order that procedures specified in the order will be implemented in the event that a contaminant is discharged into the natural environment from the undertaking or property.

Grounds
for order

(2) The Director may make an order under this section where the Director is of the opinion, upon reasonable and probable grounds,

- (a) that the nature of the undertaking or of anything on or in the property is such that if a contaminant is discharged into the natural environment from the undertaking or from or on the property, the contaminant will result or is likely to result in an effect mentioned in clause 1 (1) (c); and
- (b) that the requirements specified in the order are necessary or advisable in order,
 - (i) to prevent or reduce the risk of the discharge of the contaminant into the natural environment from the undertaking or from or on the property, or
 - (ii) to prevent, decrease or eliminate an effect mentioned in clause 1 (1) (c) that will result or that is likely to result from the discharge of the contaminant into the natural environment from the undertaking or from or on the property.

7. Section 62 of the said Act is repealed and the following substituted therefor: s. 62,
re-enacted

62. In this Part, “sewage system” means,

Interpre-
tation

- (a) a privy, a privy-vault, a holding tank or a toilet other than a toilet to which regulations made under clause 44 (2) (a) of the *Ontario Water Resources Act* apply; R.S.O. 1980,
c. 361
- (b) a sewage works from which sewage is not to drain or be discharged directly or indirectly into a ditch, drain or storm sewer or a well, lake, river, pond, spring, stream, reservoir or other water (other than ground water) or watercourse;
- (c) a privately-owned sewage works serving only five or fewer private residences; or
- (d) any other facility or land for the reception, treatment, transportation or disposal of sewage,

but does not include,

- (e) a sewage works to which subsection 24 (1) of the *Ontario Water Resources Act* applies;

- (f) a privately-owned sewage works designed for the partial treatment of sewage that is to drain or be discharged into a sanitary sewer;
- (g) a sewage works the main purpose of which is to drain agricultural lands;
- (h) a drainage works under the *Cemeteries Act*, the *Drainage Act*, the *Public Transportation and Highway Improvement Act* or *The Railways Act*;
- (i) plumbing as defined in the regulations under the *Ontario Water Resources Act*; or
- (j) a holding tank to which regulations made under clause 136 (3) (a) or (b) apply.

R.S.O. 1980,
cc. 59, 126,
421;
R.S.O. 1950,
c. 331

s. 63,
re-enacted

8. Section 63 of the said Act is repealed and the following substituted therefor:

Application
of
R.S.O. 1980,
c. 361

63. A sewage system that is subject to this Part is not subject to the *Ontario Water Resources Act*, except to the extent specified by the regulations.

s. 65,
re-enacted;
s. 66,
repealed

Certificate
of
approval

9. Sections 65 and 66 of the said Act are repealed and the following substituted therefor:

65.—(1) Subject to subsection (2), a person who applies in accordance with this Act and the regulations for a certificate of approval under this Part and who,

- (a) submits to the Director the plans, specifications and information required by the Director;
- (b) meets the requirements of this Part and the regulations; and
- (c) pays the fee prescribed under this Act,

is entitled to be issued the certificate of approval.

Criteria

(2) The Director may refuse to issue a certificate of approval under this Part where,

- (a) the proposed construction, establishment, operation, installation, enlargement, extension or alteration of a sewage system will not comply with this Act or the regulations;
- (b) the application therefor is incomplete;

- (c) the plans, specifications and information required by or under this Act in respect of the proposed construction, establishment, operation, installation, enlargement, extension or alteration have not been submitted or are incomplete;
- (d) the Director is of the opinion, upon reasonable and probable grounds, that the construction, establishment, operation, installation, enlargement, extension or alteration of the sewage system,
 - (i) will create or is likely to create a nuisance,
 - (ii) will not be or is not likely to be in the public interest,
 - (iii) will result or is likely to result in a hazard to the health or safety of any person, or
 - (iv) will result or is likely to result in impairment of the quality of the natural environment for any use that can be made of it; or
- (e) any fees due are unpaid.

(3) The Director may issue a certificate of approval under this Part where the proposed construction, establishment, operation, installation, enlargement, extension or alteration of a sewage system does not comply in all respects with this Act and the regulations but the Director is of the opinion, upon reasonable and probable grounds,

Relief from
strict
compliance

- (a) that the non-compliance is for practical purposes unavoidable;
- (b) that the intent of this Part and the regulations is not offended; and
- (c) that the construction, establishment, operation, installation, enlargement, extension or alteration of the sewage system,
 - (i) will not create a nuisance,
 - (ii) will not be contrary to the public interest,
 - (iii) will not result in a hazard to the health or safety of any person, and

- (iv) will not result in impairment of the quality of the natural environment for any use that can be made of it.

Terms
and
conditions

(4) The Director may alter a term or condition to which a certificate of approval under this Part is subject or may attach terms and conditions to a certificate of approval under this Part where the Director is of the opinion, upon reasonable and probable grounds, that the alteration or the terms and conditions are necessary or advisable to prevent, eliminate or ameliorate,

- (a) a nuisance;
- (b) detriment to the public interest;
- (c) a hazard to the health or safety of any person; or
- (d) impairment of the quality of the natural environment for any use that can be made of it,

that will or is likely to result from the construction, establishment, operation, installation, enlargement, extension or alteration of the sewage system.

Revocation
of term or
condition

(5) The Director may revoke a term or condition to which a certificate of approval under this Part is subject where the Director is of the opinion, upon reasonable and probable grounds, that the term or condition is not necessary in order to prevent, eliminate or ameliorate a nuisance, detriment to the public interest, a hazard to the health or safety of any person or impairment of the natural environment for any use that can be made of it.

Suspension
or
revocation

(6) The Director may suspend or revoke a certificate of approval under this Part,

- (a) where the Director is of the opinion, upon reasonable and probable grounds, that the construction, establishment, operation, installation, enlargement, extension or alteration of the sewage system,
 - (i) will create or is likely to create a nuisance,
 - (ii) will not be or is not likely to be in the public interest,
 - (iii) will result or is likely to result in a hazard to the health or safety of any person, or

- (iv) will result or is likely to result in impairment of the quality of the natural environment for any use that can be made of it; or
- (b) where the certificate of approval was issued on mistaken or false information.

10. Subsection 67 (3) of the said Act is repealed and the following substituted therefor: s. 67 (3),
re-enacted

(3) The Director shall not issue a permit for the use or operation of a sewage system that does not comply with a certificate of approval issued in respect of the sewage system or that contravenes this Act or the regulations until the sewage system is altered so that, in the opinion of the Director, it will not create a nuisance, be contrary to the public interest or result in a hazard to the health or safety of any person. Refusal
of
permit
for non-
compliance

(4) Subsection (3) does not apply where the Director is of the opinion that, in the circumstances, the use or operation of the sewage system will not create a nuisance, be contrary to the public interest or result in a hazard to the health or safety of any person. Exception

(5) The Director shall not issue a permit for the use or operation of a sewage system in respect of which a certificate of approval required under this Part has not been issued if the Director is of the opinion upon reasonable and probable grounds that the use or operation of the sewage system or part thereof may create a nuisance, is not in the public interest or may result in a hazard to the health or safety of any person, until the sewage system or the part thereof is altered so that, in the opinion of the Director, it will not create a nuisance, be contrary to the public interest or result in a hazard to the health or safety of any person. Refusal of
permit for
lack of
certificate

(6) The Director or a provincial officer may inspect a sewage system for the purposes of subsections (3), (4) and (5). Inspection

(7) Subsection (2) does not apply to prevent the closing in of part of a sewage system upon the written authorization of a provincial officer or the Director, and a provincial officer who has inspected the part of the sewage system or the Director may give such a written authorization. Authority
to close
in part
of sewage
system

11.—(1) Subsection 68 (1) of the said Act is amended by striking out “or” at the end of clause (c), by adding “or” at the end of clause (d) and by adding thereto the following clause: s. 68 (1),
amended

- (e) constructs, establishes, installs, enlarges, extends or alters a building on or a structure on or in a parcel of land on or in which a sewage system is located, or alters a parcel of land on or in which a sewage system is located, so that the operation or effectiveness of the sewage system is impaired or is likely to be impaired.

s. 68 (2),
amended

(2) Subsection 68 (2) of the said Act is amended by striking out “Minister” in the second line and inserting in lieu thereof “Director”.

s. 69 (5),
repealed

12. Subsection 69 (5) of the said Act is repealed.

s. 70 (2)
(d) (ii),
re-enacted

13.—(1) Subclause 70 (2) (d) (ii) of the said Act is repealed and the following substituted therefor:

- (ii) with respect to applications mentioned in subsection 71 (2); or

s. 70,
amended

(2) Section 70 of the said Act is amended by adding thereto the following subsections:

Fees

(4) A municipality that has entered into an agreement under this section may prescribe fees or the method of calculation of fees under section 71 and for applications for certificates of approval issued by a Director designated in the agreement but a fee therefor under this subsection shall not be less than the fee therefor under the regulations.

Idem

(5) A municipality may charge fees in accordance with the regulations or subsection (4) for the purposes of section 71 and for applications for certificates of approval and permits under this Part.

Existing
agreements

(6) A municipality that has entered into an agreement under subsection (2) before this subsection comes into force has authority to carry out inspections respecting sewage systems under subclause (2) (d) (ii) and to prescribe, charge and collect fees under subsections (4) and (5) in respect thereof.

s. 71,
re-enacted

14. Section 71 of the said Act is repealed and the following substituted therefor:

Fees re
land use
applications,
interpre-
tation

71.—(1) In this section, “immediate family” means the child, son-in-law, daughter-in-law, parent, stepchild, grandchild or grandparent of an applicant or a person to whom the applicant stands in the place of a parent.

(2) An applicant,

Where fee payable

- (a) for a consent under section 29 of the *Planning Act* or under section 52 of the *Planning Act, 1983*;
- (b) for approval of a plan of subdivision under section 36 of the *Planning Act* or under section 50 of the *Planning Act, 1983*;
- (c) for authorization of a minor variance under section 49 of the *Planning Act* or under section 44 of the *Planning Act, 1983*; or
- (d) for an approval or exemption referred to in section 50 of the *Condominium Act*,

R.S.O. 1980,
c. 379
1983, c. 1R.S.O. 1980,
c. 84

shall pay to the municipality that has jurisdiction in the area where the land is situate the fee referred to in subsection 70 (5) or, where no municipality has jurisdiction under this Part in the area, shall pay to the Treasurer of Ontario a fee in accordance with the regulations.

(3) No fee is payable under subsection (2) in respect of,

Exemption

- (a) in the case of an application for a consent under section 29 of the *Planning Act* or under section 52 of the *Planning Act, 1983*, each parcel of land that the applicant proposes to retain or otherwise deal with,
 - (i) that is more than four hectares in area,
 - (ii) for which a sewage works has been approved under section 24 of the *Ontario Water Resources Act*, or a predecessor of that Act, to serve the parcel of land, or
 - (iii) that is part of the land on which the owner thereof resides and from which he derives his chief source of income by farming, where no person other than the applicant and one or more members of his immediate family are parties to the transaction in respect of which the application is made;
- (b) in the case of an application under section 36 of the *Planning Act* or under section 50 of the *Planning Act, 1983*,
 - (i) each lot that is more than four hectares in area on the proposed plan of subdivision, or

R.S.O. 1980,
c. 361

R.S.O. 1980,
c. 361

- (ii) each lot that will be served by a sewage works in respect of which an application has been or will be made for approval or that has been approved under section 24 of the *Ontario Water Resources Act* or a predecessor of that Act;

R.S.O. 1980,
c. 379
1983, c. 1

- (c) in the case of an application for authorization of a minor variance under section 49 of the *Planning Act* or under section 44 of the *Planning Act, 1983*, each parcel of land in respect of which the application is made for which a sewage works has been approved under section 24 of the *Ontario Water Resources Act* or a predecessor of that Act to serve the parcel of land;

R.S.O. 1980,
c. 84

- (d) in the case of an application for an approval or exemption referred to in section 50 of the *Condominium Act*, each unit that will be served by a sewage works in respect of which an application has been or will be made for approval or that has been approved under section 24 of the *Ontario Water Resources Act*, or a predecessor of that Act; or

- (e) a parcel, lot or unit of land that is exempt by the regulations.

Application
not to be
granted
until fee
paid

- (4) An application described in subsection (2) shall not be granted unless the person to whom the application is made is satisfied that the fee referred to in subsection (2) has been paid or that no fee is payable.

s. 113,
amended

15.—(1) Section 113 of the said Act is amended by striking out “and” at the end of clause (d) and by adding thereto the following clauses:

- (f) to monitor and record, both in the manner specified in the order, the discharge into the natural environment of the contaminant specified in the order and to report thereon to the Director;
- (g) to study and to report to the Director upon,
 - (i) measures to control the discharge into the natural environment of the contaminant specified in the order,
 - (ii) the effects of the discharge into the natural environment of the contaminant specified in the order,

- (iii) the natural environment into which the contaminant specified in the order is being or is likely to be discharged; and
- (h) to report to the Director in respect of fuel, materials and methods of production used and intended to be used, and the wastes that will or are likely to be generated.

(2) The said section 113 is further amended by adding thereto the following subsection: s. 113,
amended

(2) A person required under subsection (1) to study and to report to the Director on a matter shall report to the Director in the manner, at the times and with the information specified by the Director in the order. Report to
Director

16. Subsections 120 (5) and (6) of the said Act are repealed and the following substituted therefor: s. 120 (5, 6),
re-enacted

(5) The Board may sit in two or more divisions simultaneously so long as a quorum of the Board is present in each division. Board
may sit
in divisions

(6) The chairman or the vice-chairman may authorize one member of the Board to hear and determine any matter and, for the purpose, the member has all the jurisdiction and powers of the Board. One member
may hear and
determine
matter

17. Subsection 122 (2) of the said Act is repealed and the following substituted therefor: s. 122 (2),
re-enacted

(2) The commencement of a proceeding before the Board does not operate as a stay of a stop order or of an order to monitor, record and report that is a control order or a part of a control order. Stay
on
appeal

(3) No failure or refusal to issue, amend, vary or revoke an order is an order. Failure or
refusal to
issue,
etc., order

18.—(1) The said Act is further amended by adding thereto the following section: s. 122a,
enacted

122a.—(1) An applicant for a hearing by the Board shall state in the notice requiring the hearing, Contents
of notice
requiring
hearing

- (a) the portions of the order, direction, term, condition, suspension, revocation or licence or other form of permission in respect of which the hearing is required; and

- (b) the grounds on which the applicant for the hearing intends to rely at the hearing.

Effect of
contents of
notice

(2) Except with leave of the Board, at a hearing by the Board an applicant is not entitled to appeal a portion of the order, direction, term, condition, suspension, revocation or licence or other form of permission, or to rely on a ground, that is not stated in the applicant's notice requiring the hearing.

Leave by
Board

(3) The Board may grant the leave referred to in subsection (2) where the Board is of the opinion that to do so is proper in the circumstances, and the Board may give such directions as the Board considers proper consequent upon the granting of the leave.

Application
of subs. (1)

(2) Section 122a of the said Act, as enacted by subsection (1), applies only in respect of a notice requiring a hearing that is served upon the Director or the Environmental Appeal Board after this section comes into force.

s. 122b,
enacted

19. The said Act is further amended by adding thereto the following section:

Order
removing
stay

122b.—(1) Upon application with notice by the Director, a court or other appellate tribunal before which an appeal has been commenced under this Act, in the circumstances mentioned in subsection (2), by order may remove a stay of a matter in appeal.

Grounds
for order

(2) A court or other appellate tribunal may make an order under this section where the court or other appellate tribunal is satisfied that the order is necessary or advisable to prevent or to reduce a hazard to the health or safety of any person or to prevent or reduce impairment of the natural environment for any use that can be made of it.

s. 127,
amended

20.—(1) Section 127 of the said Act is amended by adding thereto the following subsections:

Detention
or removal
for testing

(1a) A provincial officer may detain any thing at the place where he finds it or may remove the thing or cause it to be removed to another place until the surveys, examinations, investigations, tests and inquiries in respect of the thing that the provincial officer is authorized to make or require to be made are completed.



Application
for release

(1b) Upon application with notice by the owner or the person who had the charge, management or control of a thing detained by a provincial officer, a justice of the peace may make an order for the release of the thing detained to the per-

son from whom the thing was seized where it appears that the thing detained is no longer necessary for the purpose of the administration of this Act and the regulations.

(1c) An appeal lies from an order or refusal to make an order under subsection (1b) by a justice of the peace in the same manner as an appeal from a conviction in a proceeding commenced by means of a certificate under the *Provincial Offences Act*. Appeal
R.S.O. 1980,
c. 400

(2) Subsection 127 (2) of the said Act is amended by inserting after "air" in the fourth line "or to detain or remove any thing" and by inserting after "thereon" in the sixth line "to detain or to remove any thing". s. 127 (2),
amended

21. The said Act is further amended by adding thereto the following section: s. 134a,
enacted

134a. A municipality may enter into an agreement with the Minister under clause 3 (j) and a municipality that enters into such an agreement has all the powers necessary to carry out the agreement. Agreement
by
municipality

22. The said Act is further amended by adding thereto the following section: s. 134b,
enacted

134b.—(1) In this section, "Board" means the Ontario Labour Relations Board. Interpre-
tation

(2) No employer shall, Unjust
dismissal

(a) dismiss an employee;

(b) discipline an employee;

(c) penalize an employee; or

(d) coerce or intimidate or attempt to coerce or intimidate an employee,

because the employee has complied or may comply with,

(e) the *Environmental Assessment Act*; R.S.O. 1980,
c. 140


(f) the *Environmental Protection Act*; R.S.O. 1980,
c. 141

(g) the *Fisheries Act* (Canada); R.S.C. 1970,
c. F-14

(h) the *Ontario Water Resources Act*; or R.S.O. 1980,
c. 361

R.S.O. 1980,
c. 376

(i) the *Pesticides Act*,

or a regulation under one of those Acts or an order, term or condition, certificate of approval, licence, permit or direction under one of those Acts or because the employee has sought or may seek the enforcement of one of those Acts or a regulation under one of those Acts or has given or may give information to the Ministry or a provincial officer or has been or may be called upon to testify in a proceeding related to one of those Acts or a regulation under one of those Acts. 

Complaint

(3) A person complaining of a contravention of subsection (2) may file the complaint in writing with the Board.

Where
complaint
referred to
O.L.R.B.

(4) Where a complaint is filed in writing with the Board,

(a) the Board may authorize a labour relations officer to inquire into the complaint; or

(b) the Board may inquire into the complaint.

Labour
relations
officer

(5) A labour relations officer who is authorized to inquire into the complaint shall make his inquiry forthwith and shall endeavour to effect a settlement of the matter complained of and shall report the results of his inquiry and endeavours to the Board.

Where
settlement
not reached

(6) Where the labour relations officer is unable to effect a settlement of the matter complained of, the Board may inquire into the complaint.

Inquiry by
O.L.R.B.

(7) Where the Board inquires into the complaint and is satisfied that an employer has contravened subsection (2), the Board shall determine what, if anything, the employer shall do or refrain from doing with respect thereto.

Determin-
ation

(8) A determination under subsection (7) may include, but is not limited to, one or more of,

(a) an order directing the employer to cease doing the act or acts complained of;

(b) an order directing the employer to rectify the act or acts complained of; or

(c) an order directing the employer to reinstate in employment the complainant, with or without compensation, or to compensate in lieu of hiring or reinstatement for loss of earnings or other employment

benefits in an amount that may be assessed by the Board against the employer.

(9) A determination by the Board under subsection (7) Application applies notwithstanding a provision of an agreement.

(10) On an inquiry under this section, the burden of proof Burden of proof that an employer did not contravene subsection (2) lies upon the employer.

(11) Where there is a failure to comply with a term of the determination made under subsection (7), the complainant, after the expiration of fourteen days from the date of the release of the determination by the Board or from the date provided in the determination for compliance, whichever is later, may notify the Board in writing of the failure. Failure to comply

(12) Where the Board receives notice in accordance with subsection (11), the Board shall file in the office of the Registrar of the Supreme Court a copy of the determination, exclusive of the reasons therefor, if any, and the determination shall be entered in the same way as a judgment or order of the court and is enforceable as such. Filing of determination

(13) Where the matter complained of has been settled, whether through the endeavours of the labour relations officer or otherwise, and the terms of the settlement have been put in writing and signed, the settlement is binding and shall be complied with according to its terms, and a complaint that a settlement has not been complied with shall be deemed to be a complaint under subsection (3). Compliance with settlement

(14) The *Labour Relations Act* and the regulations under that Act apply with necessary modifications in respect of a proceeding under subsections (2) to (13). Application of R.S.O. 1980, c. 228

(15) For the purposes of subsections (2) to (14), an act mentioned in subsection (2) that is performed on behalf of an employer shall be deemed to be the act of the employer. Act performed on behalf of employer

23.—(1) Subsection 136 (1) of the said Act is amended by adding thereto the following clause: s. 136 (1), amended

- (aa) requiring the persons responsible for sources of contaminants in a class of sources of contaminants to monitor, record and report to the Ministry or to the persons specified in the regulations on the sources of contaminants including, but not limited to, fuel, materials and methods of production used and intended to be used, the wastes and contaminants

that will or are likely to be generated, the natural environment that may be affected by the discharge of the contaminants and the effects of the discharge of the contaminants, and to perform and report to the Ministry on research respecting methods of reducing or preventing the generation of wastes and contaminants from the sources of contaminants.

s. 136 (5) (d),
re-enacted

(2) Clause 136 (5) (d) of the said Act is repealed and the following substituted therefor:

R.S.O. 1980,
c. 361

- (d) specifying sewage systems or classes of sewage systems that shall be subject to provisions of the *Ontario Water Resources Act*, classifying sewage systems for the purpose and specifying the provisions of that Act to which such sewage systems or classes of sewage systems shall be subject.

s. 136 (5) (i),
amended

(3) Clause 136 (5) (i) of the said Act is amended by striking out “and the fees therefor” in the first and second lines.

s. 136 (5)
(k, m),
re-enacted

(4) Clauses 136 (5) (k) and (m) of the said Act are repealed and the following substituted therefor:

- (k) prescribing fees or the method of calculation of fees and the procedure for payment under section 71 and for applications for certificates of approval, permits and licences issued by a Director;

- (m) exempting applicants referred to in section 71 from payment of fees under that section in respect of a specified parcel, lot or unit of land or in respect of a specified class or classes thereof, and classifying parcels, lots or units of land for the purpose.

s. 137 (3),
re-enacted

24. Subsection 137 (3) of the said Act is repealed and the following substituted therefor:

Classes

- (3) A class under this Act or the regulations may be defined with respect to any attribute, quality or characteristic or combination thereof and may be defined to consist of or to include or exclude any specified member whether or not with the same attributes, qualities or characteristics.


s. 149,
enacted

25.—(1) The said Act is further amended by adding thereto the following section:

Orders

149. The authority to make an order under this Act includes the authority to require the person or body to whom

the order is directed to take such intermediate action or such procedural steps or both as are related to the action required or prohibited by the order and as are specified in the order.

(2) Section 149 of the said Act, as enacted by subsection (1), **applies in respect of every order made under the said Act whether or not the order was made before this section comes into force.**  Application of subs. (1)

26. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

27. The short title of this Act is the *Environmental Protec- Short title*
tion Amendment Act, 1983.

Bill 52

(Chapter 52
Statutes of Ontario, 1983)

An Act to amend the Environmental Protection Act

The Hon. A. S. Brandt
Minister of the Environment

<i>1st Reading</i>	June 2nd, 1983
<i>2nd Reading</i>	November 8th, 1983
<i>3rd Reading</i>	November 9th, 1983
<i>Royal Assent</i>	November 9th, 1983

Bill 52

1983

**An Act to amend the
Environmental Protection Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (1) (c) of the *Environmental Protection Act*, being chapter 141 of the Revised Statutes of Ontario, 1980, is amended by striking out “or” at the end of subclause (iv) and by adding thereto the following subclauses:

s. 1 (1) (c),
amended

(vi) cause loss of enjoyment of normal use of property, or

(vii) interfere with the normal conduct of business.

(2) Subsection 1 (1) of the said Act is amended by adding thereto the following clause:

s. 1 (1),
amended

(ca) “discharge”, when used alone as a verb, includes add, deposit or emit and, when used alone as a noun, includes addition, deposit or emission.

2. The said Act is amended by adding thereto the following section:

s. 1a,
enacted

1a. A contaminant that is discharged into the air within a building or structure as a result of the discharge of the same or another contaminant in another building or structure shall be deemed to be discharged into the natural environment by the owner or the person who has the charge, management or control of the contaminant discharged in the other building or structure.

Secondary
discharge
within
building

3. Subsection 4 (1) of the said Act is amended by inserting after “Ministry” in the second line “or, subject to the approval of the Lieutenant Governor in Council, such other persons”.

s. 4 (1),
amended

s. 13 (1),
amended

4. Subsection 13 (1) of the said Act is amended by striking out “or” at the end of clause (e) and by adding thereto the following clauses:

- (g) causes or is likely to cause loss of enjoyment of normal use of property; or
- (h) interferes or is likely to interfere with the normal conduct of business.

s. 14 (1),
amended

5. Subsection 14 (1) of the said Act is amended by striking out “or” at the end of clause (e) and by adding thereto the following clauses:

- (g) causes or is likely to cause loss of enjoyment of normal use of property; or
- (h) interferes or is likely to interfere with the normal conduct of business.

s. 17,
re-enacted

6. Section 17 of the said Act is repealed and the following substituted therefor:

Order by
Director re
preventive
measures

17.—(1) The Director, in the circumstances mentioned in subsection (2), by a written order may require a person who owns or who has management or control of an undertaking or property to do any one or more of the following:

1. To have available at all times, or during such periods of time as are specified in the order, the equipment, material and personnel specified in the order at the locations specified in the order.
2. To obtain, construct and install or modify the devices, equipment and facilities specified in the order at the locations and in the manner specified in the order.
3. To implement procedures specified in the order.
4. To take all steps necessary in order that procedures specified in the order will be implemented in the event that a contaminant is discharged into the natural environment from the undertaking or property.

Grounds
for order

(2) The Director may make an order under this section where the Director is of the opinion, upon reasonable and probable grounds,

- (a) that the nature of the undertaking or of anything on or in the property is such that if a contaminant is discharged into the natural environment from the undertaking or from or on the property, the contaminant will result or is likely to result in an effect mentioned in clause 1 (1) (c); and
- (b) that the requirements specified in the order are necessary or advisable in order,
 - (i) to prevent or reduce the risk of the discharge of the contaminant into the natural environment from the undertaking or from or on the property, or
 - (ii) to prevent, decrease or eliminate an effect mentioned in clause 1 (1) (c) that will result or that is likely to result from the discharge of the contaminant into the natural environment from the undertaking or from or on the property.

7. Section 62 of the said Act is repealed and the following substituted therefor: s. 62,
re-enacted

62. In this Part, “sewage system” means,

Interpre-
tation

- (a) a privy, a privy-vault, a holding tank or a toilet other than a toilet to which regulations made under clause 44 (2) (a) of the *Ontario Water Resources Act* apply; R.S.O. 1980,
c. 361
- (b) a sewage works from which sewage is not to drain or be discharged directly or indirectly into a ditch, drain or storm sewer or a well, lake, river, pond, spring, stream, reservoir or other water (other than ground water) or watercourse;
- (c) a privately-owned sewage works serving only five or fewer private residences; or
- (d) any other facility or land for the reception, treatment, transportation or disposal of sewage,

but does not include,

- (e) a sewage works to which subsection 24 (1) of the *Ontario Water Resources Act* applies;

- (f) a privately-owned sewage works designed for the partial treatment of sewage that is to drain or be discharged into a sanitary sewer;
- (g) a sewage works the main purpose of which is to drain agricultural lands;
- (h) a drainage works under the *Cemeteries Act*, the *Drainage Act*, the *Public Transportation and Highway Improvement Act* or *The Railways Act*;
- (i) plumbing as defined in the regulations under the *Ontario Water Resources Act*; or
- (j) a holding tank to which regulations made under clause 136 (3) (a) or (b) apply.

R.S.O. 1980,
cc. 59, 126,
421;
R.S.O. 1950,
c. 331

s. 63,
re-enacted

8. Section 63 of the said Act is repealed and the following substituted therefor:

Application
of
R.S.O. 1980,
c. 361

63. A sewage system that is subject to this Part is not subject to the *Ontario Water Resources Act*, except to the extent specified by the regulations.

s. 65,
re-enacted;
s. 66,
repealed

9. Sections 65 and 66 of the said Act are repealed and the following substituted therefor:

Certificate
of
approval

65.—(1) Subject to subsection (2), a person who applies in accordance with this Act and the regulations for a certificate of approval under this Part and who,

- (a) submits to the Director the plans, specifications and information required by the Director;
- (b) meets the requirements of this Part and the regulations; and
- (c) pays the fee prescribed under this Act,

is entitled to be issued the certificate of approval.

Criteria

(2) The Director may refuse to issue a certificate of approval under this Part where,

- (a) the proposed construction, establishment, operation, installation, enlargement, extension or alteration of a sewage system will not comply with this Act or the regulations;
- (b) the application therefor is incomplete;

- (c) the plans, specifications and information required by or under this Act in respect of the proposed construction, establishment, operation, installation, enlargement, extension or alteration have not been submitted or are incomplete;
- (d) the Director is of the opinion, upon reasonable and probable grounds, that the construction, establishment, operation, installation, enlargement, extension or alteration of the sewage system,
 - (i) will create or is likely to create a nuisance,
 - (ii) will not be or is not likely to be in the public interest,
 - (iii) will result or is likely to result in a hazard to the health or safety of any person, or
 - (iv) will result or is likely to result in impairment of the quality of the natural environment for any use that can be made of it; or
- (e) any fees due are unpaid.

(3) The Director may issue a certificate of approval under this Part where the proposed construction, establishment, operation, installation, enlargement, extension or alteration of a sewage system does not comply in all respects with this Act and the regulations but the Director is of the opinion, upon reasonable and probable grounds,

Relief from
strict
compliance

- (a) that the non-compliance is for practical purposes unavoidable;
- (b) that the intent of this Part and the regulations is not offended; and
- (c) that the construction, establishment, operation, installation, enlargement, extension or alteration of the sewage system,
 - (i) will not create a nuisance,
 - (ii) will not be contrary to the public interest,
 - (iii) will not result in a hazard to the health or safety of any person, and

- (iv) will not result in impairment of the quality of the natural environment for any use that can be made of it.

Terms
and
conditions

(4) The Director may alter a term or condition to which a certificate of approval under this Part is subject or may attach terms and conditions to a certificate of approval under this Part where the Director is of the opinion, upon reasonable and probable grounds, that the alteration or the terms and conditions are necessary or advisable to prevent, eliminate or ameliorate,

- (a) a nuisance;
- (b) detriment to the public interest;
- (c) a hazard to the health or safety of any person; or
- (d) impairment of the quality of the natural environment for any use that can be made of it,

that will or is likely to result from the construction, establishment, operation, installation, enlargement, extension or alteration of the sewage system.

Revocation
of term or
condition

(5) The Director may revoke a term or condition to which a certificate of approval under this Part is subject where the Director is of the opinion, upon reasonable and probable grounds, that the term or condition is not necessary in order to prevent, eliminate or ameliorate a nuisance, detriment to the public interest, a hazard to the health or safety of any person or impairment of the natural environment for any use that can be made of it.

Suspension
or
revocation

(6) The Director may suspend or revoke a certificate of approval under this Part,

- (a) where the Director is of the opinion, upon reasonable and probable grounds, that the construction, establishment, operation, installation, enlargement, extension or alteration of the sewage system,
 - (i) will create or is likely to create a nuisance,
 - (ii) will not be or is not likely to be in the public interest,
 - (iii) will result or is likely to result in a hazard to the health or safety of any person, or

(iv) will result or is likely to result in impairment of the quality of the natural environment for any use that can be made of it; or

(b) where the certificate of approval was issued on mistaken or false information.

10. Subsection 67 (3) of the said Act is repealed and the following substituted therefor:

s. 67 (3),
re-enacted

(3) The Director shall not issue a permit for the use or operation of a sewage system that does not comply with a certificate of approval issued in respect of the sewage system or that contravenes this Act or the regulations until the sewage system is altered so that, in the opinion of the Director, it will not create a nuisance, be contrary to the public interest or result in a hazard to the health or safety of any person.

Refusal
of
permit
for non-
compliance

(4) Subsection (3) does not apply where the Director is of the opinion that, in the circumstances, the use or operation of the sewage system will not create a nuisance, be contrary to the public interest or result in a hazard to the health or safety of any person.

Exception

(5) The Director shall not issue a permit for the use or operation of a sewage system in respect of which a certificate of approval required under this Part has not been issued if the Director is of the opinion upon reasonable and probable grounds that the use or operation of the sewage system or part thereof may create a nuisance, is not in the public interest or may result in a hazard to the health or safety of any person, until the sewage system or the part thereof is altered so that, in the opinion of the Director, it will not create a nuisance, be contrary to the public interest or result in a hazard to the health or safety of any person.

Refusal of
permit for
lack of
certificate

(6) The Director or a provincial officer may inspect a sewage system for the purposes of subsections (3), (4) and (5).

Inspection

(7) Subsection (2) does not apply to prevent the closing in of part of a sewage system upon the written authorization of a provincial officer or the Director, and a provincial officer who has inspected the part of the sewage system or the Director may give such a written authorization.

Authority
to close
in part
of sewage
system

11.—(1) Subsection 68 (1) of the said Act is amended by striking out “or” at the end of clause (c), by adding “or” at the end of clause (d) and by adding thereto the following clause:

s. 68 (1),
amended

- (e) constructs, establishes, installs, enlarges, extends or alters a building on or a structure on or in a parcel of land on or in which a sewage system is located, or alters a parcel of land on or in which a sewage system is located, so that the operation or effectiveness of the sewage system is impaired or is likely to be impaired.

s. 68 (2),
amended

(2) Subsection 68 (2) of the said Act is amended by striking out “Minister” in the second line and inserting in lieu thereof “Director”.

s. 69 (5),
repealed

12. Subsection 69 (5) of the said Act is repealed.

s. 70 (2)
(d) (ii),
re-enacted

13.—(1) Subclause 70 (2) (d) (ii) of the said Act is repealed and the following substituted therefor:

- (ii) with respect to applications mentioned in subsection 71 (2); or

.

s. 70,
amended

(2) Section 70 of the said Act is amended by adding thereto the following subsections:

Fees

(4) A municipality that has entered into an agreement under this section may prescribe fees or the method of calculation of fees under section 71 and for applications for certificates of approval issued by a Director designated in the agreement but a fee therefor under this subsection shall not be less than the fee therefor under the regulations.

Idem

(5) A municipality may charge fees in accordance with the regulations or subsection (4) for the purposes of section 71 and for applications for certificates of approval and permits under this Part.

Existing
agreements

(6) A municipality that has entered into an agreement under subsection (2) before this subsection comes into force has authority to carry out inspections respecting sewage systems under subclause (2) (d) (ii) and to prescribe, charge and collect fees under subsections (4) and (5) in respect thereof.

s. 71,
re-enacted

14. Section 71 of the said Act is repealed and the following substituted therefor:

Fees re
land use
applications,
interpre-
tation

71.—(1) In this section, “immediate family” means the child, son-in-law, daughter-in-law, parent, stepchild, grandchild or grandparent of an applicant or a person to whom the applicant stands in the place of a parent.

(2) An applicant,

Where fee payable

- (a) for a consent under section 29 of the *Planning Act* or under section 52 of the *Planning Act, 1983*;
- (b) for approval of a plan of subdivision under section 36 of the *Planning Act* or under section 50 of the *Planning Act, 1983*;
- (c) for authorization of a minor variance under section 49 of the *Planning Act* or under section 44 of the *Planning Act, 1983*; or
- (d) for an approval or exemption referred to in section 50 of the *Condominium Act*,

R.S.O. 1980,
c. 379
1983, c. 1R.S.O. 1980,
c. 84

shall pay to the municipality that has jurisdiction in the area where the land is situate the fee referred to in subsection 70 (5) or, where no municipality has jurisdiction under this Part in the area, shall pay to the Treasurer of Ontario a fee in accordance with the regulations.

(3) No fee is payable under subsection (2) in respect of,

Exemption

- (a) in the case of an application for a consent under section 29 of the *Planning Act* or under section 52 of the *Planning Act, 1983*, each parcel of land that the applicant proposes to retain or otherwise deal with,
 - (i) that is more than four hectares in area,
 - (ii) for which a sewage works has been approved under section 24 of the *Ontario Water Resources Act*, or a predecessor of that Act, to serve the parcel of land, or
 - (iii) that is part of the land on which the owner thereof resides and from which he derives his chief source of income by farming, where no person other than the applicant and one or more members of his immediate family are parties to the transaction in respect of which the application is made;
- (b) in the case of an application under section 36 of the *Planning Act* or under section 50 of the *Planning Act, 1983*,
 - (i) each lot that is more than four hectares in area on the proposed plan of subdivision, or

R.S.O. 1980,
c. 361

R.S.O. 1980,
c. 361

- (ii) each lot that will be served by a sewage works in respect of which an application has been or will be made for approval or that has been approved under section 24 of the *Ontario Water Resources Act* or a predecessor of that Act;

R.S.O. 1980,
c. 379
1983, c. 1

- (c) in the case of an application for authorization of a minor variance under section 49 of the *Planning Act* or under section 44 of the *Planning Act, 1983*, each parcel of land in respect of which the application is made for which a sewage works has been approved under section 24 of the *Ontario Water Resources Act* or a predecessor of that Act to serve the parcel of land;

R.S.O. 1980,
c. 84

- (d) in the case of an application for an approval or exemption referred to in section 50 of the *Condominium Act*, each unit that will be served by a sewage works in respect of which an application has been or will be made for approval or that has been approved under section 24 of the *Ontario Water Resources Act*, or a predecessor of that Act; or

- (e) a parcel, lot or unit of land that is exempt by the regulations.

Application
not to be
granted
until fee
paid

- (4) An application described in subsection (2) shall not be granted unless the person to whom the application is made is satisfied that the fee referred to in subsection (2) has been paid or that no fee is payable.

s. 113,
amended

15.—(1) Section 113 of the said Act is amended by striking out “and” at the end of clause (d) and by adding thereto the following clauses:

- (f) to monitor and record, both in the manner specified in the order, the discharge into the natural environment of the contaminant specified in the order and to report thereon to the Director;
- (g) to study and to report to the Director upon,
 - (i) measures to control the discharge into the natural environment of the contaminant specified in the order,
 - (ii) the effects of the discharge into the natural environment of the contaminant specified in the order,

- (iii) the natural environment into which the contaminant specified in the order is being or is likely to be discharged; and
- (h) to report to the Director in respect of fuel, materials and methods of production used and intended to be used, and the wastes that will or are likely to be generated.

(2) The said section 113 is further amended by adding thereto the following subsection: s. 113,
amended

(2) A person required under subsection (1) to study and to report to the Director on a matter shall report to the Director in the manner, at the times and with the information specified by the Director in the order. Report to
Director

16. Subsections 120 (5) and (6) of the said Act are repealed and the following substituted therefor: s. 120 (5, 6),
re-enacted

(5) The Board may sit in two or more divisions simultaneously so long as a quorum of the Board is present in each division. Board
may sit
in divisions

(6) The chairman or the vice-chairman may authorize one member of the Board to hear and determine any matter and, for the purpose, the member has all the jurisdiction and powers of the Board. One member
may hear and
determine
matter

17. Subsection 122 (2) of the said Act is repealed and the following substituted therefor: s. 122 (2),
re-enacted

(2) The commencement of a proceeding before the Board does not operate as a stay of a stop order or of an order to monitor, record and report that is a control order or a part of a control order. Stay
on
appeal

(3) No failure or refusal to issue, amend, vary or revoke an order is an order. Failure or
refusal
to issue,
etc., order

18.—(1) The said Act is further amended by adding thereto the following section: s. 122a,
enacted

122a.—(1) An applicant for a hearing by the Board shall state in the notice requiring the hearing, Contents
of notice
requiring
hearing

- (a) the portions of the order, direction, term, condition, suspension, revocation or licence or other form of permission in respect of which the hearing is required; and

- (b) the grounds on which the applicant for the hearing intends to rely at the hearing.

Effect of
contents of
notice

(2) Except with leave of the Board, at a hearing by the Board an applicant is not entitled to appeal a portion of the order, direction, term, condition, suspension, revocation or licence or other form of permission, or to rely on a ground, that is not stated in the applicant's notice requiring the hearing.

Leave by
Board

(3) The Board may grant the leave referred to in subsection (2) where the Board is of the opinion that to do so is proper in the circumstances, and the Board may give such directions as the Board considers proper consequent upon the granting of the leave.

Application
of subs. (1)

(2) Section 122a of the said Act, as enacted by subsection (1), applies only in respect of a notice requiring a hearing that is served upon the Director or the Environmental Appeal Board after this section comes into force.

s. 122b,
enacted

19. The said Act is further amended by adding thereto the following section:

Order
removing
stay

122b.—(1) Upon application with notice by the Director, a court or other appellate tribunal before which an appeal has been commenced under this Act, in the circumstances mentioned in subsection (2), by order may remove a stay of a matter in appeal.

Grounds
for order

(2) A court or other appellate tribunal may make an order under this section where the court or other appellate tribunal is satisfied that the order is necessary or advisable to prevent or to reduce a hazard to the health or safety of any person or to prevent or reduce impairment of the natural environment for any use that can be made of it.

s. 127,
amended

20.—(1) Section 127 of the said Act is amended by adding thereto the following subsections:

Detention
or removal
for testing

(1a) A provincial officer may detain any thing at the place where he finds it or may remove the thing or cause it to be removed to another place until the surveys, examinations, investigations, tests and inquiries in respect of the thing that the provincial officer is authorized to make or require to be made are completed.

Application
for release

(1b) Upon application with notice by the owner or the person who had the charge, management or control of a thing detained by a provincial officer, a justice of the peace may make an order for the release of the thing detained to the per-

son from whom the thing was seized where it appears that the thing detained is no longer necessary for the purpose of the administration of this Act and the regulations.

(1c) An appeal lies from an order or refusal to make an order under subsection (1b) by a justice of the peace in the same manner as an appeal from a conviction in a proceeding commenced by means of a certificate under the *Provincial Offences Act*. Appeal
R.S.O. 1980,
c. 400

(2) Subsection 127 (2) of the said Act is amended by inserting after “air” in the fourth line “or to detain or remove any thing” and by inserting after “thereon” in the sixth line “to detain or to remove any thing”. s. 127 (2),
amended

21. The said Act is further amended by adding thereto the following section: s. 134a,
enacted

134a. A municipality may enter into an agreement with the Minister under clause 3 (j) and a municipality that enters into such an agreement has all the powers necessary to carry out the agreement. Agreement
by
municipality

22. The said Act is further amended by adding thereto the following section: s. 134b,
enacted

134b.—(1) In this section, “Board” means the Ontario Labour Relations Board. Interpre-
tation

(2) No employer shall, Unjust
dismissal

- (a) dismiss an employee;
- (b) discipline an employee;
- (c) penalize an employee; or
- (d) coerce or intimidate or attempt to coerce or intimidate an employee,

because the employee has complied or may comply with,

- (e) the *Environmental Assessment Act*; R.S.O. 1980,
c. 140
- (f) the *Environmental Protection Act*; R.S.O. 1980,
c. 141
- (g) the *Fisheries Act* (Canada); R.S.C. 1970,
c. F-14
- (h) the *Ontario Water Resources Act*; or R.S.O. 1980,
c. 361

R.S.O. 1980,
c. 376

(i) the *Pesticides Act*,

or a regulation under one of those Acts or an order, term or condition, certificate of approval, licence, permit or direction under one of those Acts or because the employee has sought or may seek the enforcement of one of those Acts or a regulation under one of those Acts or has given or may give information to the Ministry or a provincial officer or has been or may be called upon to testify in a proceeding related to one of those Acts or a regulation under one of those Acts.

Complaint

(3) A person complaining of a contravention of subsection (2) may file the complaint in writing with the Board.

Where
complaint
referred to
O.L.R.B.

(4) Where a complaint is filed in writing with the Board,

(a) the Board may authorize a labour relations officer to inquire into the complaint; or

(b) the Board may inquire into the complaint.

Labour
relations
officer

(5) A labour relations officer who is authorized to inquire into the complaint shall make his inquiry forthwith and shall endeavour to effect a settlement of the matter complained of and shall report the results of his inquiry and endeavours to the Board.

Where
settlement
not reached

(6) Where the labour relations officer is unable to effect a settlement of the matter complained of, the Board may inquire into the complaint.

Inquiry by
O.L.R.B.

(7) Where the Board inquires into the complaint and is satisfied that an employer has contravened subsection (2), the Board shall determine what, if anything, the employer shall do or refrain from doing with respect thereto.

Determin-
ation

(8) A determination under subsection (7) may include, but is not limited to, one or more of,

(a) an order directing the employer to cease doing the act or acts complained of;

(b) an order directing the employer to rectify the act or acts complained of; or

(c) an order directing the employer to reinstate in employment the complainant, with or without compensation, or to compensate in lieu of hiring or reinstatement for loss of earnings or other employment

benefits in an amount that may be assessed by the Board against the employer.

(9) A determination by the Board under subsection (7) applies notwithstanding a provision of an agreement.

(10) On an inquiry under this section, the burden of proof that an employer did not contravene subsection (2) lies upon the employer.

(11) Where there is a failure to comply with a term of the determination made under subsection (7), the complainant, after the expiration of fourteen days from the date of the release of the determination by the Board or from the date provided in the determination for compliance, whichever is later, may notify the Board in writing of the failure.

(12) Where the Board receives notice in accordance with subsection (11), the Board shall file in the office of the Registrar of the Supreme Court a copy of the determination, exclusive of the reasons therefor, if any, and the determination shall be entered in the same way as a judgment or order of the court and is enforceable as such.

(13) Where the matter complained of has been settled, whether through the endeavours of the labour relations officer or otherwise, and the terms of the settlement have been put in writing and signed, the settlement is binding and shall be complied with according to its terms, and a complaint that a settlement has not been complied with shall be deemed to be a complaint under subsection (3).

(14) The *Labour Relations Act* and the regulations under that Act apply with necessary modifications in respect of a proceeding under subsections (2) to (13).

(15) For the purposes of subsections (2) to (14), an act mentioned in subsection (2) that is performed on behalf of an employer shall be deemed to be the act of the employer.

23.—(1) Subsection 136 (1) of the said Act is amended by adding thereto the following clause:

(aa) requiring the persons responsible for sources of contaminants in a class of sources of contaminants to monitor, record and report to the Ministry or to the persons specified in the regulations on the sources of contaminants including, but not limited to, fuel, materials and methods of production used and intended to be used, the wastes and contaminants

that will or are likely to be generated, the natural environment that may be affected by the discharge of the contaminants and the effects of the discharge of the contaminants, and to perform and report to the Ministry on research respecting methods of reducing or preventing the generation of wastes and contaminants from the sources of contaminants.

s. 136 (5) (d),
re-enacted

(2) Clause 136 (5) (d) of the said Act is repealed and the following substituted therefor:

R.S.O. 1980,
c. 361

- (d) specifying sewage systems or classes of sewage systems that shall be subject to provisions of the *Ontario Water Resources Act*, classifying sewage systems for the purpose and specifying the provisions of that Act to which such sewage systems or classes of sewage systems shall be subject.

s. 136 (5) (i),
amended

(3) Clause 136 (5) (i) of the said Act is amended by striking out “and the fees therefor” in the first and second lines.

s. 136 (5)
(k, m),
re-enacted

(4) Clauses 136 (5) (k) and (m) of the said Act are repealed and the following substituted therefor:

- (k) prescribing fees or the method of calculation of fees and the procedure for payment under section 71 and for applications for certificates of approval, permits and licences issued by a Director;
-
- (m) exempting applicants referred to in section 71 from payment of fees under that section in respect of a specified parcel, lot or unit of land or in respect of a specified class or classes thereof, and classifying parcels, lots or units of land for the purpose.

s. 137 (3),
re-enacted

24. Subsection 137 (3) of the said Act is repealed and the following substituted therefor:

Classes

(3) A class under this Act or the regulations may be defined with respect to any attribute, quality or characteristic or combination thereof and may be defined to consist of or to include or exclude any specified member whether or not with the same attributes, qualities or characteristics.

s. 149,
enacted

25.—(1) The said Act is further amended by adding thereto the following section:

Orders

149. The authority to make an order under this Act includes the authority to require the person or body to whom

the order is directed to take such intermediate action or such procedural steps or both as are related to the action required or prohibited by the order and as are specified in the order.

(2) Section 149 of the said Act, as enacted by subsection (1), applies in respect of every order made under the said Act whether or not the order was made before this section comes into force. Application
of
subs. (1)

26. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

27. The short title of this Act is the *Environmental Protection Amendment Act, 1983*. Short title

Bill 53

An Act to amend the Occupational Health and Safety Act

The Hon. R. H. Ramsay
Minister of Labour

1st Reading June 2nd, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. The proposed re-enactment of subsection 21 (3) clarifies the application of subsections 21 (1) and (2). The proposed subsection 21 (4) provides a method of resolving disputes as to whether or not an agent is a new biological or chemical agent or combination of such agents. The proposed subsection 21 (5) authorizes the Minister to make orders for the purposes of subsection 21 (3) and will have the effect of confirming an existing order made under subsection 21 (3).

SECTION 2. The proposed re-enactment of section 22 clarifies the “notice and comment” procedures to be followed with respect to the making of regulations related to designated substances. At present, section 22 applies only to regulations made under paragraph 14 of subsection 41 (2) of the Act. The re-enactment extends the application of section 22 to regulations made under both paragraphs 14 and 15 of subsection 41 (2).

SECTION 3. Self-explanatory.

SECTION 4. The proposed paragraphs 24 and 25 of subsection 41 (2) authorize the Lieutenant Governor in Council to make regulations requiring employers to establish and maintain training programs for workers.

Bill 53

1983

An Act to amend the Occupational Health and Safety Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 21 (3) of the *Occupational Health and Safety Act*, being chapter 321 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 21 (3),
re-enacted

(3) Subsection (1) does not apply to, Application

- (a) agents, whether in combination or not, used in one or more work places in Ontario on or before the 1st day of October, 1979; or
- (b) agents, whether in combination or not, mentioned in an inventory compiled or adopted by order of the Minister.

(4) Where a dispute arises as to the application of this section, a Director may investigate the matter and issue an order directing compliance therewith, and subsections 20 (4) to (7) and (9) to (12) apply, with necessary modifications, to such order. Orders of
Director

(5) The Minister has, and shall be deemed always to have had, the power to compile or adopt, by order, one or more inventories for the purposes of subsection (3). Minister's
order

2. Section 22 of the said Act is repealed and the following substituted therefor: s. 22,
re-enacted

22.—(1) Where a regulation is to be made prescribing a biological, chemical or physical agent or combination thereof as a designated substance and prohibiting, regulating, restricting, limiting or controlling the handling of, exposure to, or the use and disposal thereof, the Minister shall publish in *The Ontario Gazette* a notice, setting forth the proposed regulation Designation
of
substances

and calling for comments, briefs or submissions thereon to be filed in writing with the Minister within sixty days of the publication of the notice or within such longer period as the Minister may specify in the notice.

Making of
regulation

(2) Upon expiry of the period allowed for the filing of briefs, comments and submissions under subsection (1), the Lieutenant Governor in Council may make the regulation with or without amendments.

Publication
not required

(3) Where a regulation is made under subsection (2) with amendments, the regulation need not be republished under subsection (1) but shall be deposited with the chairman or vice-chairman of the Advisory Council on Occupational Health and Occupational Safety and shall not be filed under the *Regulations Act* until at least thirty days have elapsed after notice of the depositing and of the amendments is published in *The Ontario Gazette*.

R.S.O. 1980,
c. 446

Amending
regulations

(4) Subsections (1) to (3) apply to every regulation that amends or repeals a regulation that has been made in accordance with subsection (2).

Saving
R.S.O. 1980,
c. 321

3. A regulation to which section 22 of the *Occupational Health and Safety Act* applied, as that section read immediately prior to the coming into force of this Act, shall not be adjudged defective or invalid by reason of the fact that the regulation as made is not the same as the proposed regulation as published under clause (b) of that section.

s. 41 (2),
amended

4. Subsection 41 (2) of the said Act is amended by striking out “and” at the end of paragraph 22 and by adding thereto the following paragraphs:

24. requiring an employer to establish and maintain training programs as developed, approved or adopted by the Minister and requiring an employer to certify as to the successful completion by a worker of the training program and the worker's proficiency in the skills sought to be developed by the program; and
25. providing for the issue by the Ministry of Colleges and Universities of certificates of accreditation and qualification to workers who successfully complete a program required under paragraph 24.

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

6. The short title of this Act is the *Occupational Health and Safety Amendment Act, 1983*. Short title



Bill 54

An Act to amend the Consumer Protection Act

Mr. Swart

1st Reading June 2nd, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to require that every product offered for sale bearing a product code must also be marked with its purchase price. The Bill prohibits increases in the purchase price of a product above the price initially marked on it by the retailer. The Bill also provides that if the price marked on the product differs from the price associated with the product code, the purchase price of the product is the lower of the two prices.

Bill 54

1983

An Act to amend the Consumer Protection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Consumer Protection Act*, being chapter 87 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

s. 38a,
enacted

38a.—(1) In this section,

Interpre-
tation

- (a) “product” means an item of goods and includes a wrapper or container of goods;
- (b) “product code” means a marking on a product designed to be read by a computer device for the purpose of identifying the product and includes the universal product code;
- (c) “retail seller” means a person who offers a product for sale but not for resale.

(2) No retail seller shall offer for sale a product that is marked with a product code unless the purchase price of the product is clearly and legibly marked on the product.

Purchase
price
marking
required

(3) No retail seller shall, at any time after a product is offered for sale, increase the purchase price of the product to a price higher than the purchase price initially marked on the product.

Alteration of
purchase
price

(4) Where the purchase price marked on a product differs from the purchase price identified by a computer device, the purchase price of the product shall be the lower of the two prices.

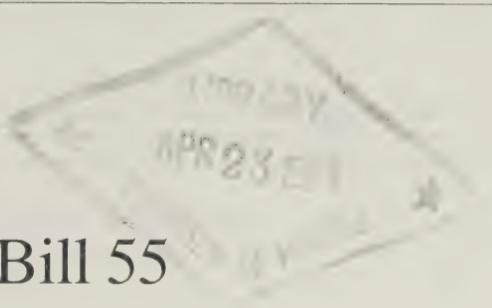
Purchase
price lower
of two
prices

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

Short title

3. The short title of this Act is the *Consumer Protection Amendment Act, 1983*.



Bill 55

**An Act to prevent unjust enrichment
through the Financial Exploitation of Crime**

Mr. Renwick

1st Reading June 2nd, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill makes moneys earned by accused criminals from the sale of their memoirs payable to the Criminal Injuries Compensation Board, which uses the funds received in each case to satisfy judgments obtained by victims of the crime.

Bill 55

1983

**An Act to prevent unjust enrichment
through the Financial Exploitation of Crime**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “Board” means the Criminal Injuries Compensation Board established under the *Compensation for Victims of Crime Act*; R.S.O. 1980,
c. 82
- (b) “broadcast” means information transmitted by cables, wires, fibre-optic linkages, laser beams or any form of wireless radioelectric communication employing Hertzian waves;
- (c) “person accused or convicted of a crime” includes,
 - (i) a person who has been charged with a crime,
 - (ii) a person who has been convicted of a crime, and
 - (iii) a person who has admitted the commission of a crime for which the person has not been prosecuted;
- (d) “victim” means a person who suffers injury, damage or pecuniary loss as a direct result of a crime.

2.—(1) Every person who makes an agreement with a person accused or convicted of a crime, or with the person’s agent or assignee, with respect to a book, magazine or newspaper article, broadcast, tape recording, phonograph recording, video recording, live presentation or other representation based upon or concerning the crime shall,

Payments
to Board

- (a) provide the Board with a copy of the contract; and

- (b) pay to the Board any moneys which would, under the contract, be payable to the person accused or convicted of the crime, his agent or nominee.

List to be
public

(2) The Board shall maintain a complete list of all persons in respect of whom it receives moneys under section 2 and shall make the list available to the public upon request.

Board to
hold funds

3.—(1) The Board shall hold all moneys received under section 2 in a special account, which may be an interest-bearing account, shall keep full records as to their source and disbursement and shall deal with the moneys in accordance with this Act.

Interest

(2) Interest earned on moneys received under section 2 forms part of the moneys to be dealt with by the Board in accordance with this Act.

Notice to
victims

4.—(1) Where the Board first receives moneys under section 2 in respect of a particular crime, it shall publish, in a newspaper circulated in the community where the crime was committed or alleged to have been committed, at least once every week for four weeks, a notice advising victims of the crime that it holds the moneys and of their rights under this Act.

Idem

(2) The Board may give such further notice to victims as it considers advisable.

Victim
may sue
R.S.O. 1980,
cc. 152, 240

5.—(1) Despite subsection 60 (4) of the *Family Law Reform Act* and section 45 of the *Limitations Act*, a victim may bring an action for the recovery of damages against the person accused or convicted of the crime within five years after the date on which the Board first received moneys under section 2 in respect of the crime.

Notice
to Board

(2) A victim who commences an action for damages against the person accused or convicted of the crime shall provide the Board with a copy of the statement of claim.

Payment
to victim

6.—(1) Where a victim obtains judgment in an action for damages commenced against the person accused or convicted of the crime, the Board, after a day five years and six months after the day the Board first received moneys under this Act, shall pay the amount of the judgment and costs to the victim from the funds it holds under this Act.

Action for
damages

(2) Where, on the day named in subsection (1), the Board has notice that a victim has commenced an action for damages against the person accused or convicted of the crime and that

the action has not been finally disposed of, the Board shall not make a payment under subsection (1) until the action has been finally disposed of.

(3) Where the aggregate amount of judgments and costs in respect of a particular crime exceeds the moneys received by the Board in respect of the crime, the Board shall distribute the moneys to the victims on a *pro rata* basis.

When funds insufficient

7.—(1) Where, on a day five years and six months after the day the Board first received moneys under this Act in respect of a particular crime, the Board has not been notified of an action commenced against the person accused or convicted of the crime during the five-year period described in subsection 5 (1), the Board shall release the moneys to the person accused or convicted of the crime.

Release of funds where no victim sues

(2) Where, after the Board has paid the full amounts of all judgments and costs payable to victims of a particular crime in accordance with this Act, the Board retains a balance of moneys received in respect of the crime, the Board shall pay the balance to the person accused or convicted of the crime.

Balance after judgments satisfied

8. Every person who contravenes section 2 of this Act is guilty of an offence and upon conviction is liable to a fine not exceeding \$5,000.

Penalty

9. Nothing in this Act affects the power of the Board to award compensation to a victim under the *Compensation for Victims of Crime Act*.

Board's power under R.S.O. 1980, c. 82

10. This Act comes into force on the day it receives Royal Assent.

Commencement

11. The short title of this Act is the *Profits from Crime Act, 1983*.

Short title

Bill 56

**An Act to provide for the
Readjustment of Electoral Boundaries**

Mr. Renwick

1st Reading June 2nd, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill provides a mechanism for the readjustment of Ontario's electoral boundaries upon the completion of each decennial Statistics Canada census. An independent commission would be appointed by the Speaker to determine the number of electoral districts, fix electoral boundaries and report back to the Assembly.

Bill 56

1983

**An Act to provide for the
Readjustment of Electoral Boundaries**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, “commission” means an electoral boundaries readjustment commission appointed under subsection 2 (1). Interpretation

2.—(1) After the completion of each decennial census of the population of Ontario conducted by Statistics Canada, the Speaker of the Assembly shall appoint an electoral boundaries readjustment commission consisting of, Speaker to appoint commission

(a) one person on the recommendation of the leader of each political party that is represented in the Assembly by four or more members and that nominated candidates in at least half the electoral districts in the most recent general election; and

(b) the Chief Election Officer appointed under the *Election Act*. R.S.O. 1980, c. 133

(2) The members of the commission shall elect one of their number to be chairman. Chairman

(3) Members of the commission shall not, during their membership, be members of the Assembly, the Senate or the House of Commons or candidates at an election or hold office in any political party or constituency association or make contributions to any political party or constituency association. Members not to hold office or make political contributions

(4) For the purpose of carrying out its duties under this Act the commission has the powers of a commission under Part II of the *Public Inquiries Act* and that Part applies to the commission's proceedings as if they were an inquiry under that Act. Powers of commission under R.S.O. 1980, c. 411

Remuneration
of members

3.—(1) The members of the commission, except the Chief Election Officer, shall be paid such *per diem* allowances as the Lieutenant Governor in Council determines.

Staff,
etc.

(2) The commission may employ such staff, lease such premises and acquire such equipment and supplies as are necessary to allow it to perform its duties under this Act.

Duties of
commission

4.—(1) The commission shall determine the population of Ontario as accurately as possible, based on the most recent figures available from Statistics Canada, shall determine the number of electoral districts into which Ontario is to be divided and shall fix their boundaries.

Number of
electoral
districts

(2) The number of electoral districts shall not be reduced and shall not be increased by a factor that exceeds the factor by which the population of Ontario, as determined by the commission, has increased since the last preceding decennial census.

Northern
electoral
districts

(3) The total number of electoral districts in the part of Ontario lying north and west of the southern boundaries of the present electoral districts of Algoma-Manitoulin, Sudbury East and Nipissing shall not be less than fifteen.

Relevant
circum-
stances

(4) In determining the number of electoral districts into which Ontario is to be divided and fixing their boundaries, the commission shall consider all the relevant circumstances, including,

- (a) communications and transportation networks;
- (b) existing municipal boundaries;
- (c) the existing and traditional boundaries of electoral districts;
- (d) the special needs of rural and thinly populated areas with respect to representation;
- (e) population trends; and
- (f) special topographical and geographical features.

Population
of electoral
districts

(5) No electoral district shall have a population that varies from the average population of electoral districts by more than 15 per cent, unless the commission considers that special circumstances of the kind enumerated in subsection (4) exist that justify a greater variation.

5.—(1) Before submitting its report under subsection 6 (1), the commission shall prepare a map showing the boundaries of each proposed electoral district. Draft map

(2) The commission shall publish the map or appropriate parts of the map in newspapers of general circulation in the proposed electoral districts together with a notice setting out when and in what manner objections, comments and suggestions relating to the boundaries of the proposed electoral districts may be made. Publication

(3) The commission may, if the members consider it advisable, hold public meetings for discussion of the boundaries of proposed electoral districts. Public meetings

6.—(1) The commission shall, not more than eighteen months after its appointment, submit to the Speaker a report setting out its findings and conclusions under subsection 4 (1). Report to Speaker

(2) The Speaker shall cause the report to be laid before the Assembly if it is in session, or, if not, at the next ensuing session. Tabling

7.—(1) Where an objection to a specified provision of the report, with reasons therefor, is signed by ten or more members of the Assembly and filed with the Clerk of the House within fifteen days from the day the report is laid before the Assembly, the Assembly shall consider the matter within fifteen days from the day the objection is filed. Objection by members

(2) Where an objection is filed under subsection (1) and the Assembly has considered the matter, the Speaker shall refer the report back to the commission, together with a copy of the objection and a copy of the Debates of the Assembly relating to the matter, and the commission shall promptly consider and deal with the objections and submit a final report to the Speaker. Reference back to commission

(3) The Speaker shall cause the final report to be laid before the Assembly if it is in session, or, if not, at the next ensuing session. Tabling of final report

8.—(1) Where no motion is filed with the Speaker under subsection 7 (1), or where a final report has been laid before the Assembly under subsection 7 (3), the commission shall prepare a draft bill to revise the *Representation Act* in accordance with its report or final report, and shall submit the draft bill to the Speaker, who shall transmit it to the Minister of Intergovernmental Affairs, or such other member of the Exec- Draft bill

R.S.O. 1980,
c. 450

utive Council as may be designated by the Lieutenant Governor in Council, for introduction in the Assembly.

Commission
dissolved

(2) The commission is dissolved when the draft bill is submitted to the Speaker under subsection (1).

Commence-
ment

9. This Act comes into force on the day it receives Royal Assent.

Short title

10. The short title of this Act is the *Electoral Boundaries Readjustment Act, 1983*.

Bill 57

**An Act to amend the
Municipality of Metropolitan Toronto Act**

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

1st Reading June 3rd, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill provides for the future operation of The Guild, a hotel, restaurant, recreational and cultural facility situate in the Borough of Scarborough, now owned by The Metropolitan Toronto and Region Conservation Authority and operated by Guildwood Hall, an Ontario corporation, under a lease that expires on June 15, 1983.

The following are the principal features of the Bill:

1. The lease is extended until December 31, 1983.
2. A Board of Management is established for The Guild consisting of a chairman and fourteen other members to be appointed by the Metropolitan Council, of whom seven will be nominees of the Lieutenant Governor in Council. The first chairman will be appointed by the Lieutenant Governor in Council on the nomination of the Board and thereafter will be elected by the Board.
3. The Metropolitan Corporation is empowered to acquire The Guild from the conservation authority and to enter into agreements providing for the operation of The Guild by the Board of Management, the first such agreement to be for a period of two years, expiring December 31, 1985.
4. The Board of Management is directed to conduct a study into the appropriate future uses of The Guild and the adjoining lands and to report its recommendations thereon to the Minister of Municipal Affairs and Housing and the chairman of the Metropolitan Council not later than June 16, 1985. The costs of the study reasonably incurred by the Board will be borne by the province.
5. Employees of Guildwood Hall are to be offered employment by the Board at no loss in salary commencing January 1, 1984, and their pension rights are protected.

Bill 57

1983

**An Act to amend the
Municipality of Metropolitan Toronto Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

s. 206a,
enacted

206a.—(1) In this section,

Interpre-
tation

- (a) “Board” means the Board of Management of The Guild;
- (b) “The Guild” means the lands and buildings, as described in Article I of the Indenture of Lease mentioned in subsection (10), situate in the Borough of Scarborough known as The Guild, used for hotel, restaurant, recreational and cultural facilities.

(2) The Metropolitan Corporation may acquire The Guild from The Metropolitan Toronto and Region Conservation Authority by purchase, lease or otherwise and may operate, manage and maintain The Guild as a hotel, restaurant, recreational, cultural, conference and seminar facility.

Acquisition
of Guild by
Metropolitan
Corporation

(3) There is hereby established a corporation without share capital under the name “Board of Management of The Guild” and the Board shall have a corporate seal, may sue and be sued in its own name, may enter into contracts including contracts of employment, and shall have all powers necessary for or incidental to the operation, management and maintenance of The Guild.

Board
established

(4) The *Corporations Act* does not apply to the Board.

R.S.O. 1980,
c. 95,
not to apply

Composition
of Board

(5) The Board shall consist of fifteen members composed of a chairman and fourteen members appointed by the Metropolitan Council, of whom seven shall be nominees of the Lieutenant Governor in Council.

Term of
office

(6) The members shall hold office for a term not exceeding that of the Council that appointed them, and until their successors are appointed, and all such members are eligible for re-appointment.

First
chairman

(7) The Lieutenant Governor in Council shall appoint as first chairman of the Board a person who is the nominee of the Board, to hold office during the term specified in the appointment, and the Board may elect from among its members a vice-chairman.

Chairman

(8) After the term of the first chairman has expired the Board shall elect as chairman one of the members of the Board or some other person to hold office until his or her successor is elected.

Quorum

(9) A majority of the members of the Board constitutes a quorum.

Lease
extended

(10) The Indenture of Lease dated the 16th day of June, 1978, between The Metropolitan Toronto and Region Conservation Authority of the First Part (the Landlord), Ravenna Guild Inn Limited (for which was subsequently substituted Guildwood Hall) of the Second Part (the Tenant), The Municipality of Metropolitan Toronto of the Third Part and H. Spencer Clark of the Fourth Part (Guarantor) is hereby extended so as to be fully complete and ended on the 31st day of December, 1983, and the Indenture of Lease as extended is hereby declared valid and binding on the parties thereto, according to its terms.

Notices
declared
null and void

(11) The Notice of Termination dated the 1st day of November, 1982 given by The Metropolitan Toronto and Region Conservation Authority to Guildwood Hall and the Notice of Termination of Maintenance and Service Contracts, Employment Contracts, Rental Contracts and Contracts for the Supply of Accommodation and Catering Services dated the 10th day of November, 1982 given by The Metropolitan Toronto and Region Conservation Authority and The Municipality of Metropolitan Toronto to Guildwood Hall are hereby declared to be null and void and of no force or effect.

(12) The Metropolitan Corporation shall enter into agreements with the Board entrusting the operation, management and maintenance of The Guild to the Board on such terms and conditions as the Metropolitan Council may consider proper.

Agreement to operate, manage and maintain Guild

(13) The first such agreement entered into in accordance with subsection (12) shall be for a period of two years, ending on the 31st day of December, 1985, and is subject to the approval of the Lieutenant Governor in Council.

First agreement

(14) The Board may enact by-laws for the regulation of its proceedings and for the conduct and management of its affairs.

By-laws

(15) The Board is a local board of the Metropolitan Corporation.

Local board

(16) The Metropolitan Corporation is entitled to any surplus resulting from the operations of the Board and is responsible for any deficit incurred by it.

Surplus or deficit

(17) The Board shall submit to the Metropolitan Council its budget for the current year at the time and in the form prescribed by the Metropolitan Council and the budget shall be subject to approval, with or without modification, by the Metropolitan Council.

Budget

(18) After the approval of the Board's annual budget by the Metropolitan Council, any and all spending by the Board shall be in accordance with the approved budget in such level of detail as the Metropolitan Council determines.

Spending in accordance with budget

(19) The Board may borrow money with the prior approval of the Metropolitan Council for the purposes of acquiring working capital, but nothing in this subsection authorizes the Board to issue debentures.

Borrowing powers

(20) Every person who was employed by Guildwood Hall on the 15th day of June, 1983 as a permanent employee in connection with the operation, management and maintenance of The Guild and who continues to be an employee on the 31st day of December, 1983 shall be offered employment as an employee of the Board at no loss in salary commencing on the 1st day of January, 1984, but nothing in this subsection prevents the Board from terminating the employment of an employee for cause.

Offer of employment

(21) The Board will indemnify Guildwood Hall against any and all claims by any employee referred to in subsection (20) in any way connected with the termination of his or her employment by the Board after the 31st day of December, 1983.

Indemnification

Board
deemed
participant
in
O.M.E.R.S.

(22) The Board shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the 1st day of January, 1984.

Pension
benefits

(23) Where any person accepts employment under subsection (20),

(a) he shall become a member of the Ontario Municipal Employees Retirement System on his transfer date; and

(b) his employment with Guildwood Hall shall be deemed to have been employment with the Board for the purposes of the *Ontario Municipal Employees Retirement System Act*.

R.S.O. 1980,
c. 348

Idem

(24) The Board shall be deemed to have assumed responsibility as of the 31st day of December, 1983 for the accrued pension benefits of any pension plan in existence on that date respecting employees who accept employment under subsection (20), and the rights of Guildwood Hall in any such plans are hereby vested in the Board, but nothing in this section shall be deemed to require the Board to provide benefits other than those already earned and funded.

Study by
Board

(25) The Board shall cause a study to be conducted to consider and make recommendations in respect of,

(a) the best and most appropriate future uses of The Guild, and the uses of the lands immediately adjoining thereto; and

(b) the best and most appropriate future organization and management structure for The Guild,

and, for the purpose of implementing the study, the Board may, subject to the approval of the Minister and the chairman of the Metropolitan Council, engage as consultants such persons possessing expert or technical knowledge, as the Board considers necessary.

Costs of
study

(26) Subject to the approval of the Minister, the costs reasonably incurred by the Board in conducting the study shall be borne by the Province of Ontario.

Recommendations
of Board

(27) Upon the completion of the study, and in any event not later than the 16th day of June, 1985, the Board shall submit to the Minister and to the Metropolitan Council its recommendations in respect of the matters set out in clauses (25) (a) and (b).

(28) The moneys required for the purposes of subsection (26) shall, until the 31st day of March, 1984, be paid out of the Consolidated Revenue Fund and thereafter out of the moneys appropriated therefor by the Legislature. Moneys

2. This Act shall be deemed to have come into force on the 15th day of June, 1983. Commence-
ment

3. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1983*. Short title

Bill 57

(Chapter 39
Statutes of Ontario, 1983)

An Act to amend the Municipality of Metropolitan Toronto Act

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

<i>1st Reading</i>	June 3rd, 1983
<i>2nd Reading</i>	June 7th, 1983
<i>3rd Reading</i>	June 9th, 1983
<i>Royal Assent</i>	June 9th, 1983

Bill 57

1983

**An Act to amend the
Municipality of Metropolitan Toronto Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

s. 206a,
enacted

206a.—(1) In this section,

Interpre-
tation

- (a) “Board” means the Board of Management of The Guild;
- (b) “The Guild” means the lands and buildings, as described in Article I of the Indenture of Lease mentioned in subsection (10), situate in the Borough of Scarborough known as The Guild, used for hotel, restaurant, recreational and cultural facilities.

(2) The Metropolitan Corporation may acquire The Guild from The Metropolitan Toronto and Region Conservation Authority by purchase, lease or otherwise and may operate, manage and maintain The Guild as a hotel, restaurant, recreational, cultural, conference and seminar facility.

Acquisition
of Guild by
Metropolitan
Corporation

(3) There is hereby established a corporation without share capital under the name “Board of Management of The Guild” and the Board shall have a corporate seal, may sue and be sued in its own name, may enter into contracts including contracts of employment, and shall have all powers necessary for or incidental to the operation, management and maintenance of The Guild.

Board
established

(4) The *Corporations Act* does not apply to the Board.

R.S.O. 1980,
c. 95,
not to apply

Composition
of Board

(5) The Board shall consist of fifteen members composed of a chairman and fourteen members appointed by the Metropolitan Council, of whom seven shall be nominees of the Lieutenant Governor in Council.

Term of
office

(6) The members shall hold office for a term not exceeding that of the Council that appointed them, and until their successors are appointed, and all such members are eligible for re-appointment.

First
chairman

(7) The Lieutenant Governor in Council shall appoint as first chairman of the Board a person who is the nominee of the Board, to hold office during the term specified in the appointment, and the Board may elect from among its members a vice-chairman.

Chairman

(8) After the term of the first chairman has expired the Board shall elect as chairman one of the members of the Board or some other person to hold office until his or her successor is elected.

Quorum

(9) A majority of the members of the Board constitutes a quorum.

Lease
extended

(10) The Indenture of Lease dated the 16th day of June, 1978, between The Metropolitan Toronto and Region Conservation Authority of the First Part (the Landlord), Ravenna Guild Inn Limited (for which was subsequently substituted Guildwood Hall) of the Second Part (the Tenant), The Municipality of Metropolitan Toronto of the Third Part and H. Spencer Clark of the Fourth Part (Guarantor) is hereby extended so as to be fully complete and ended on the 31st day of December, 1983, and the Indenture of Lease as extended is hereby declared valid and binding on the parties thereto, according to its terms.

Notices
declared
null and void

(11) The Notice of Termination dated the 1st day of November, 1982 given by The Metropolitan Toronto and Region Conservation Authority to Guildwood Hall and the Notice of Termination of Maintenance and Service Contracts, Employment Contracts, Rental Contracts and Contracts for the Supply of Accommodation and Catering Services dated the 10th day of November, 1982 given by The Metropolitan Toronto and Region Conservation Authority and The Municipality of Metropolitan Toronto to Guildwood Hall are hereby declared to be null and void and of no force or effect.

(12) The Metropolitan Corporation shall enter into agreements with the Board entrusting the operation, management and maintenance of The Guild to the Board on such terms and conditions as the Metropolitan Council may consider proper.

Agreement to operate, manage and maintain Guild

(13) The first such agreement entered into in accordance with subsection (12) shall be for a period of two years, ending on the 31st day of December, 1985, and is subject to the approval of the Lieutenant Governor in Council.

First agreement

(14) The Board may enact by-laws for the regulation of its proceedings and for the conduct and management of its affairs.

By-laws

(15) The Board is a local board of the Metropolitan Corporation.

Local board

(16) The Metropolitan Corporation is entitled to any surplus resulting from the operations of the Board and is responsible for any deficit incurred by it.

Surplus or deficit

(17) The Board shall submit to the Metropolitan Council its budget for the current year at the time and in the form prescribed by the Metropolitan Council and the budget shall be subject to approval, with or without modification, by the Metropolitan Council.

Budget

(18) After the approval of the Board's annual budget by the Metropolitan Council, any and all spending by the Board shall be in accordance with the approved budget in such level of detail as the Metropolitan Council determines.

Spending in accordance with budget

(19) The Board may borrow money with the prior approval of the Metropolitan Council for the purposes of acquiring working capital, but nothing in this subsection authorizes the Board to issue debentures.

Borrowing powers

(20) Every person who was employed by Guildwood Hall on the 15th day of June, 1983 as a permanent employee in connection with the operation, management and maintenance of The Guild and who continues to be an employee on the 31st day of December, 1983 shall be offered employment as an employee of the Board at no loss in salary commencing on the 1st day of January, 1984, but nothing in this subsection prevents the Board from terminating the employment of an employee for cause.

Offer of employment

(21) The Board will indemnify Guildwood Hall against any and all claims by any employee referred to in subsection (20) in any way connected with the termination of his or her employment by the Board after the 31st day of December, 1983.

Indemnification

Board
deemed
participant
in
O.M.E.R.S.

(22) The Board shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the 1st day of January, 1984.

Pension
benefits

(23) Where any person accepts employment under subsection (20),

(a) he shall become a member of the Ontario Municipal Employees Retirement System on his transfer date; and

(b) his employment with Guildwood Hall shall be deemed to have been employment with the Board for the purposes of the *Ontario Municipal Employees Retirement System Act*.

R.S.O. 1980,
c. 348

Idem

(24) The Board shall be deemed to have assumed responsibility as of the 31st day of December, 1983 for the accrued pension benefits of any pension plan in existence on that date respecting employees who accept employment under subsection (20), and the rights of Guildwood Hall in any such plans are hereby vested in the Board, but nothing in this section shall be deemed to require the Board to provide benefits other than those already earned and funded.

Study by
Board

(25) The Board shall cause a study to be conducted to consider and make recommendations in respect of,

(a) the best and most appropriate future uses of The Guild, and the uses of the lands immediately adjoining thereto; and

(b) the best and most appropriate future organization and management structure for The Guild,

and, for the purpose of implementing the study, the Board may, subject to the approval of the Minister and the chairman of the Metropolitan Council, engage as consultants such persons possessing expert or technical knowledge, as the Board considers necessary.

Costs of
study

(26) Subject to the approval of the Minister, the costs reasonably incurred by the Board in conducting the study shall be borne by the Province of Ontario.

Recommendations
of Board

(27) Upon the completion of the study, and in any event not later than the 16th day of June, 1985, the Board shall submit to the Minister and to the Metropolitan Council its recommendations in respect of the matters set out in clauses (25) (a) and (b).

(28) The moneys required for the purposes of subsection (26) shall, until the 31st day of March, 1984, be paid out of the Consolidated Revenue Fund and thereafter out of the moneys appropriated therefor by the Legislature. Moneys

2. This Act comes into force on the 15th day of June, 1983. Commence-
ment

3. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1983*. Short title



Bill 58

An Act to amend the Municipal Act

The Hon. C. Bennett

Minister of Municipal Affairs and Housing

1st Reading June 3rd, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1.—Subsection 1. The proposed subclause (a) (iia) of paragraph 119 of section 210 of the Act will allow municipalities to recognize permits and other markers or devices issued by other jurisdictions for the purposes of their parking and traffic by-laws related to physically handicapped persons.

Subsection 2. The proposed clause (b) of paragraph 119 of section 210 deems an Ontario licence plate that bears the symbol for the disabled to be a permit for the purposes of municipal parking and traffic by-laws related to physically handicapped persons.

Subsection 3. Under the proposed paragraph 144c of section 210, municipalities will be able to pass by-laws licensing, regulating and governing the lessors of mobile signs.

Bill 58

1983

An Act to amend the Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause (a) of paragraph 119 of section 210 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subclause:

s. 210,
par. 119 (a),
amended

(iia) may deem, subject to such terms and conditions as are set out in the by-law, permits and other markers or devices issued by other jurisdictions for the purpose of identifying handicapped persons or vehicles used by handicapped persons to be permits issued for the purposes of by-laws passed under this paragraph and paragraph 150.

(2) Paragraph 119 of the said section 210 is amended by adding thereto the following clause:

s. 210,
par. 119,
amended

(b) A number plate issued under the *Highway Traffic Act* that bears the symbol for the disabled shall be deemed to be a permit issued for the purposes of by-laws passed under this paragraph and paragraph 150.

R.S.O. 1980,
c. 198

(3) Section 210 of the said Act is amended by adding thereto the following paragraph:

s. 210,
amended

144c. For licensing, regulating and governing persons who carry on the business of leasing mobile signs.

Mobile sign
lessors

(a) For the purpose of this paragraph, “mobile sign” does not include a sign attached to a vehicle where the principal use of the vehicle is the transportation of people, goods or other materials.

(b) For the purpose of this paragraph, a person who, from a location outside the municipality, carries on the business of leasing mobile signs shall be deemed

to be carrying on business in the municipality if the person locates or permits the location of his mobile signs in the municipality.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Municipal Amendment Act, 1983*.

Bill 58

(Chapter 41
Statutes of Ontario, 1983)

An Act to amend the Municipal Act

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

<i>1st Reading</i>	June 3rd, 1983
<i>2nd Reading</i>	June 14th, 1983
<i>3rd Reading</i>	June 21st, 1983
<i>Royal Assent</i>	June 21st, 1983

Bill 58

1983

An Act to amend the Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause (a) of paragraph 119 of section 210 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subclause:

s. 210,
par. 119 (a),
amended

- (iia) may deem, subject to such terms and conditions as are set out in the by-law, permits and other markers or devices issued by other jurisdictions for the purpose of identifying handicapped persons or vehicles used by handicapped persons to be permits issued for the purposes of by-laws passed under this paragraph and paragraph 150.

(2) Paragraph 119 of the said section 210 is amended by adding thereto the following clause:

s. 210,
par. 119,
amended

- (b) A number plate issued under the *Highway Traffic Act* that bears the symbol for the disabled shall be deemed to be a permit issued for the purposes of by-laws passed under this paragraph and paragraph 150.

R.S.O. 1980,
c. 198

(3) Section 210 of the said Act is amended by adding thereto the following paragraph:

s. 210,
amended

144c. For licensing, regulating and governing persons who carry on the business of leasing mobile signs.

Mobile sign
lessors

- (a) For the purpose of this paragraph, “mobile sign” does not include a sign attached to a vehicle where the principal use of the vehicle is the transportation of people, goods or other materials.
- (b) For the purpose of this paragraph, a person who, from a location outside the municipality, carries on the business of leasing mobile signs shall be deemed

to be carrying on business in the municipality if the person locates or permits the location of his mobile signs in the municipality.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Municipal Amendment Act, 1983*.

Bill 59

**An Act to amend the
Residential Tenancies Act**

Mr. Ruprecht

1st Reading June 6th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill is intended to prevent conversions of rental residential units to transient living accommodation that are undertaken primarily to exclude the units from the rent review process. It would also provide a procedure for setting the rent of a unit that has remained vacant for a year when there is no similar rental unit in the same residential complex.

Bill 59

1983

**An Act to amend the
Residential Tenancies Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 4 (a) of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 4 (a),
re-enacted

- (a) transient living accommodation provided in a *bona fide* hotel, motel, inn, tourist home or hostel, if the applicable zoning by-law permits the provision of such accommodation.

2. The said Act is amended by adding thereto the following section: s. 4a,
enacted

4a. Despite clause 4 (a), where this Act applies to a rental unit and the landlord proposes to convert the use of the rental unit to transient living accommodation as referred to in clause 4 (a), this Act continues to apply to the rental unit until the Commission makes an order, upon the landlord's application, declaring that the proposed use comes under the exemption provided by clause 4 (a). Conversion
to
transient
accommo-
dation

3. Section 128 of the said Act is amended by adding thereto the following subsection: s. 128,
amended

(2) Where subsection (1) applies to a rental unit and there is no similar rental unit in the residential complex, Idem

- (a) the rent charged for the rental unit shall not exceed the last rent charged for the rental unit for an equivalent rental period by more than 6 per cent unless the Commission orders otherwise under section 131; and

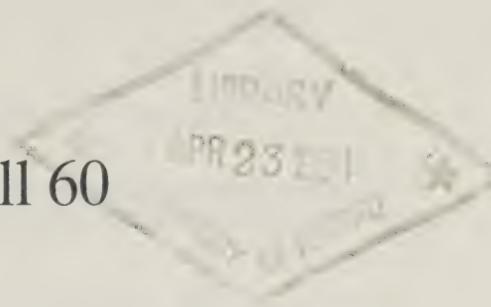
- (b) the landlord may apply to the Commission for an order under section 131, and section 126 applies with necessary modifications.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Residential Tenancies Amendment Act, 1983*.



Bill 60

An Act to amend the Landlord and Tenant Act

Mr. Ruprecht

1st Reading June 6th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill is intended to prevent landlords from evicting tenants in order to convert rented residential premises into temporary or hotel accommodation.

Bill 60

1983

An Act to amend the Landlord and Tenant Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 107 of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection:

s. 107,
amended

(8) A judge hearing an application under section 113 brought by a landlord under subsection (4) shall not direct the issue of a writ of possession where,

Where
writ to be
refused

- (a) the notice of termination was given under clause (1) (b); and
- (b) it appears that the landlord intends to use the residential premises for hotel purposes or as transient living accommodation.

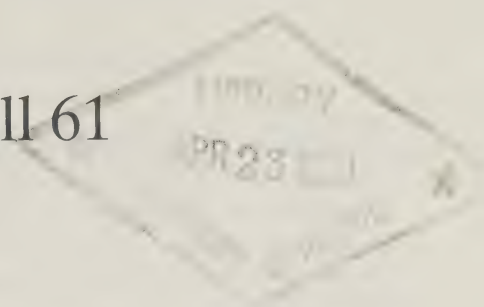
2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Landlord and Tenant Amendment Act, 1983*.

Short title

Bill 61



An Act to regulate Off-Road Vehicles

The Hon. J.W. Snow

Minister of Transportation and Communications

1st Reading June 7th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The purpose of this Bill is to regulate the use of off-road vehicles which include trail bikes and similar all terrain vehicles but does not include four wheel vehicles.

The Act does not apply to vehicles operated on a highway (s. 2).

Vehicles must have a permit and a plate and be insured (ss. 3, 14).

A person must be sixteen years of age to receive a permit (s. 4).

A peace officer is empowered to stop a vehicle and to check the permit and insurance coverage (ss. 3, 14, 16).

Provisions are made for administrative matters dealing with the issuance of plates and permits and recording transfer of ownership (ss. 4, 7).

Provision is made for owner liability for damages caused by the vehicle (s. 11) and owner responsibility where there are contraventions of the law (s. 13).

Helmets are required to be worn (s. 18).

Bill 61

1983

An Act to regulate Off-Road Vehicles

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “conservation officer” means a conservation officer appointed under the *Game and Fish Act* and a park warden appointed under the *Provincial Parks Act*; R.S.O. 1980,
cc. 183, 401
- (b) “highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, designed and intended for, or used by, the general public for the passage of vehicles;
- (c) “holder”, when used in relation to a permit, means the person in whose name the plate portion of a permit is issued;
- (d) “Minister” means the Minister of Transportation and Communications;
- (e) “Ministry” means the Ministry of Transportation and Communications;
- (f) “occupier” includes,
 - (i) a person who is in physical possession of the land, or
 - (ii) a person who has responsibility for and control over the condition of land or the activities carried on, or control over persons allowed to enter the land,

notwithstanding that there is more than one occupier of the same land;

- (g) “off-road vehicle” means a vehicle propelled or driven otherwise than by muscular power or wind and designed to travel on not more than three wheels in contact with the ground;
- (h) “peace officer” includes a police officer, constable, conservation officer or other person employed for the preservation and maintenance of the public peace or any officer appointed for enforcing or carrying out the provisions of this Act;
- (i) “permit”, unless otherwise indicated, means a permit issued under section 4 consisting of a vehicle portion and a plate portion;
- (j) “prescribed” means prescribed by the regulations;
- (k) “Registrar” means the Registrar of Motor Vehicles appointed under the *Highway Traffic Act*;
- (l) “regulations” means the regulations made under this Act.

R.S.O. 1980,
c. 198

Application

2. This Act does not apply in respect of off-road vehicles being operated on a highway.

Permit
required

3.—(1) No person shall drive an off-road vehicle except under the authority of a permit for the vehicle and with the number plate showing the number of the permit displayed on the vehicle in the manner prescribed.

Permit to
be carried

(2) Every driver of an off-road vehicle shall carry the permit for it or a true copy thereof and shall surrender the permit or copy for inspection upon demand of a peace officer.

Exception

(3) Subsection (2) does not apply to a driver of an off-road vehicle on land where the owner of the vehicle is the occupier of the land.

Issuance
of permits

4.—(1) Subject to subsection (2), every person who,

- (a) is the owner of an off-road vehicle;
- (b) is at least sixteen years of age; and
- (c) pays the prescribed fee,

is entitled to be issued a numbered permit from the Ministry for the vehicle in accordance with the regulations.

(2) Prior to the issuance of a permit under this section, the person to whom the application is made may require production of such documentation as is considered necessary to establish the requirements set out in subsection (1).

Permit
documen-
tation

(3) The Ministry may authorize number plates in an applicant's possession for use on an off-road vehicle.

Use of
plates

(4) The Minister may authorize any person to issue permits for off-road vehicles and may define the duties and powers of such person.

Local
issuance
of permits

(5) Where a salary is not provided for a person authorized under subsection (4), the Minister may set a fee to be retained by the person for each permit issued.

Fee for
issuing
permits

(6) The Ministry shall maintain,

Records

- (a) a numerical index record of all permits issued and in force under this section; and
- (b) an alphabetical index record of the names and addresses of all persons to whom permits that are in force have been issued.

(7) The Lieutenant Governor in Council may make regulations respecting any matter ancillary to the provisions of this section with respect to permits and in particular,

Regulations
re permits
and permit
numbers

- (a) prescribing forms for the purposes of this section and requiring their use;
- (b) respecting the issuance of permits and number plates;
- (c) governing the manner of displaying number plates on off-road vehicles;
- (d) prescribing fees for the issuance and replacement of permits and number plates and for any additional administrative proceedings arising therefrom;
- (e) respecting permits and number plates for use, on a temporary basis, on off-road vehicles in the possession of,
 - (i) manufacturers of off-road vehicles,
 - (ii) dealers in off-road vehicles, or

- (iii) persons in the business of repairing, customizing, modifying or transporting off-road vehicles,

where the vehicles are not kept for private use or for hire and prescribing conditions under which such off-road vehicles may be operated;

- (f) prescribing requirements for the purposes of section 7.

False
statement

5.—(1) Every person who knowingly makes a false statement in an application, declaration, affidavit or paper writing required by this Act, the regulations or the Ministry, is guilty of an offence and on conviction, in addition to any other penalty to which he may be liable, is liable to a fine of not less than \$50 and not more than \$200 or to imprisonment for a term of not more than thirty days, or to both.

Change of
address

(2) Where an owner changes his address as stated in an application for a permit or in a previous notice sent or filed under this subsection, he shall, within six days, send by registered mail to or file with the Ministry notice of his new address.

Application
where permit
under
R.S.O. 1980,
c. 198

6. Section 3 does not apply if the owner of the vehicle holds a permit for the vehicle issued under section 7 of the *Highway Traffic Act*, the number plate issued thereunder is displayed on the vehicle in accordance with the regulations under that Act and the permit is of such a nature that, were the vehicle driven on a highway, there would be no contravention of the *Highway Traffic Act* with respect to the permit and number plate.

Where
transfer of
ownership

7.—(1) Where the holder of a permit ceases to be the owner of the off-road vehicle referred to in the permit, he shall,

- (a) remove his number plate from the vehicle;
- (b) on the delivery of the vehicle to the new owner, complete the transfer section of the vehicle portion of the permit including the date of the delivery and give that portion of the permit to the new owner; and
- (c) retain the plate portion of the permit.

Re-issue
of permit

(2) Every person shall, within six days after becoming the owner of an off-road vehicle for which a permit has been

issued, apply to the Ministry, on the form provided therefor, for a new permit for the vehicle.

(3) Notwithstanding subsections 3 (1) and 8 (1), a person, to whom a number plate has been issued under section 4 for a vehicle he no longer owns, may affix the number plate to a similar vehicle that he owns where he does so in accordance with the prescribed requirements.

Temporary
use of
plate

(4) Notwithstanding section 3, a person may drive an off-road vehicle during the six day period referred to in subsection (2) where he complies with the prescribed requirements.

Idem

8.—(1) Every person who,

Violations
as to
number

- (a) defaces or alters any number plate furnished by the Ministry;
- (b) uses or permits the use of a defaced or altered number plate;
- (c) without the authority of the permit holder removes a number plate from an off-road vehicle; or
- (d) uses or permits the use of any number plate upon an off-road vehicle other than a number plate authorized for use on that off-road vehicle,

is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$500 or to imprisonment for not more than thirty days, or to both.

(2) Every number plate furnished by the Ministry under this Act is the property of the Crown and shall be returned to the Ministry when required by the Ministry.

Property
of the
Crown

9.—(1) The driver of an off-road vehicle shall ensure that,

No other
number to be
exposed and
number to be
kept clean

- (a) no number other than that upon the number plate furnished under this Act shall be exposed on any part of an off-road vehicle in such a position or manner as to confuse the identity of the number plate; and
- (b) the number is kept free from dirt and obstruction and is so affixed that the numbers thereon are plainly visible at all times and the view thereof is not obscured by any part of the vehicle or any attachments thereto, or by the load carried.

Penalty

(2) Every person who contravenes clause (1) (b) is guilty of an offence and on conviction is liable to a fine of not less than \$5 and not more than \$10.

Improper number

10. Where a peace officer has reason to believe that a number plate attached to an off-road vehicle or the permit carried by the driver,

- (a) was not furnished under this Act for the vehicle; or
- (b) was obtained by false pretences; or
- (c) has been defaced or altered,

the peace officer may take possession of the number plate or permit and retain it until the facts as to the use or furnishing of the number plate or permit for the off-road vehicle have been determined.

Liability of owner

11.—(1) Where the driver of an off-road vehicle, who is not the owner thereof, is liable for damages for injury or damage arising out of the operation by him of the vehicle with the consent of the owner, the owner is jointly and severally liable.

Idem

(2) Where an off-road vehicle is leased, the consent of the lessee of the vehicle to the operation or possession thereof by another person shall, for the purposes of subsection (1), be deemed to be the consent of the owner of the vehicle.

Time limit for instituting civil actions

12.—(1) Subject to subsections (2) and (3), no action shall be brought against a person for the recovery of damages occasioned by an off-road vehicle after the expiration of two years from the time when the injury or damage was sustained.

Limitation in case of death
R.S.O. 1980,
c. 152

(2) Where death is caused, the action may be brought within the time limited by the *Family Law Reform Act*.

Counterclaim or third party proceedings not barred

(3) This section does not apply to bar a counterclaim or third party proceedings.

Owner may be convicted

13.—(1) The owner of an off-road vehicle may be charged with and convicted of an offence under this Act, the regulations or any municipal by-law regulating, governing or prohibiting the operation of off-road vehicles, for which the driver of the off-road vehicle is subject to be charged and on conviction, the owner is liable to the penalty prescribed for the offence.

(2) Subsection (1) does not apply where, at the time of the offence, the vehicle was in the possession of a person other than the owner without the owner's consent. Exception

(3) Subsection (1) does not apply to an offence under subsections 14 (1) to (4). Idem

(4) For the purposes of this Act, where a number plate issued under section 4 of this Act or section 7 of the *Highway Traffic Act* is exposed on an off-road vehicle, the holder of the permit corresponding thereto shall be deemed to be the owner of that vehicle unless the number plate was exposed thereon without his consent, the burden of proof of which is on the permit holder. Permit holder deemed owner
R.S.O. 1980, c. 198

14.—(1) No person shall drive an off-road vehicle unless it is insured under a motor vehicle liability policy in accordance with the *Insurance Act*. Insurance
R.S.O. 1980, c. 218

(2) No owner of an off-road vehicle shall permit it to be driven unless it is insured under a motor vehicle liability policy in accordance with the *Insurance Act*. Idem

(3) Every driver of an off-road vehicle who is not owner thereof shall, upon the request of a peace officer, surrender for inspection evidence that the vehicle is insured under a motor vehicle liability policy in accordance with the *Insurance Act*. Production of evidence of insurance

(4) Every owner of an off-road vehicle that is driven on land other than land that he occupies shall, upon request of a peace officer, surrender, for inspection, within seventy-two hours after the request is made, evidence that the vehicle was insured under a motor vehicle liability policy in accordance with the *Insurance Act* at the time it was driven. Idem

(5) Subsection (4) does not apply unless the request is made within three months after the time the vehicle was driven. Time limit

(6) Every person, other than the owner of the vehicle involved, who, Driver offences

(a) contravenes subsection (1);

(b) fails to surrender evidence under subsection (3) when requested to do so; or

(c) produces false evidence when required to surrender evidence under subsection (3),

is guilty of an offence and on conviction is liable to a fine of not less than \$10 and not more than \$100.

Owner
offences

(7) Every person who, being the owner of an off-road vehicle, drives it in contravention of subsection (1) or permits it to be driven in contravention of subsection (2) is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500.

Owner
offence
for failure
to produce
evidence or
producing
false
evidence

(8) Every person who contravenes subsection (4) or who produces false evidence when required to surrender evidence under subsection (4) is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500.

Exemption

(9) Subsections (1), (2) and (3) do not apply where the vehicle is driven on land occupied by the owner of the vehicle.

Careless
driving

15. Every person who drives an off-road vehicle without due care and attention or without reasonable consideration for other persons is guilty of an offence.

Officer
may stop
driver

16.—(1) A peace officer may stop any person driving an off-road vehicle.

Land owner
may stop
driver

(2) The owner or occupier of land may stop any person driving an off-road vehicle on his land.

Duty
to stop

(3) Every person who has been signalled to stop by a person authorized to do so under subsection (1) or (2) shall stop forthwith.

Driver to
identify
himself

(4) Every person stopped under this section or subsection 17 (1) shall, when so requested, identify himself by giving his name and address to the person who stopped him.

Constable
may arrest
without
warrant

(5) A peace officer who, on reasonable and probable grounds, believes that a contravention of subsection (3) or (4) has been committed, may arrest without warrant any person whom he, on reasonable and probable grounds, believes has committed the contravention.

Duty to
stop

17.—(1) Every driver of an off-road vehicle shall stop his vehicle when approached by another vehicle with a flashing red light.

Red light
on vehicle

(2) No person, except a peace officer, shall operate an off-road vehicle that is equipped with a lamp that produces flashes of red light.

18.—(1) No person shall drive an off-road vehicle or ride on an off-road vehicle or on a conveyance towed by an off-road vehicle unless he is wearing a helmet that complies with the regulations, securely fastened under his chin with a chin strap. Helmet

(2) This section does not apply to a person driving or riding on an off-road vehicle or on a conveyance towed by an off-road vehicle where the owner of the off-road vehicle is the occupier of the land. Idem

19. Every person who enters premises on an off-road vehicle or while being towed by an off-road vehicle shall be deemed, for the purpose of subsection 4 (1) of the *Occupiers' Liability Act*, to have willingly assumed all risks where, Risks willingly assumed for purposes of R.S.O. 1980, c. 322

- (a) no fee is paid for the entry or activity of the person, other than a benefit or payment received from a government or government agency or a non-profit recreation club or association; and
- (b) the person is not being provided with living accommodation by the occupier.

20. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction, where a fine for the contravention is not otherwise provided for in this Act, is liable to a fine not exceeding \$300. Offences and fines

21.—(1) A copy of any paper filed in the Ministry under this Act or the regulations, or any statement containing information from the records required to be kept under this Act or the regulations, purporting to be certified by the Registrar under the seal of the Ministry, shall be received in evidence in all courts without proof of the seal or signature and is *prima facie* evidence of the facts contained therein. Evidence

(2) An engraved, lithographed, printed or otherwise mechanically reproduced facsimile signature of the Registrar is sufficient authentication of any such copy or statement. Signature of Registrar

22. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the standards and specifications of helmets referred to in section 18 and providing for and requiring the identification and marking of such helmets;

- (b) designating classes of off-road vehicles and exempting any class from all or any of the provisions of this Act or the regulations and prescribing conditions for any such exemptions;
- (c) designating areas within Ontario to which any provisions of this Act and the regulations do not apply;
- (d) providing for the payment of fees for copies of or access to any paper filed in the Ministry under this Act or the regulations, or any statement containing information from the records of the Ministry and prescribing the amount of such fees.

Codes

23. Any regulation may adopt by reference in whole or in part, with such changes as the Minister considers necessary, any code, and may require compliance with any code that is so adopted.

Commence-
ment

24.—(1) This Act, except sections 3 to 10 and sections 14 to 19, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 4 to 10 and sections 15 to 19 come into force on the 1st day of February, 1984.

Idem

(3) Sections 3 and 14 come into force on the 1st day of June, 1984.

Short title

25. The short title of this Act is the *Off-Road Vehicles Act, 1983*.

Bill 61

APR 23 1983

An Act to regulate Off-Road Vehicles

The Hon. J.W. Snow

Minister of Transportation and Communications

1st Reading June 7th, 1983

2nd Reading October 18th, 1983

3rd Reading

Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

The purpose of this Bill is to regulate the use of off-road vehicles which include trail bikes and similar all terrain vehicles but does not include four wheel vehicles.

➡ The Act does not apply to vehicles operated on a highway (s. 2).

Children under the age of twelve are restricted to driving on land occupied by the owner of the vehicle (s. 4). ⬆

Vehicles must have a permit and a plate and be insured (ss. 3, 15).

A person must be sixteen years of age to receive a permit (s. 5).

A peace officer is empowered to stop a vehicle and to check the permit and insurance coverage (ss. 3, 15, 17).

Provisions are made for administrative matters dealing with the issuance of plates and permits and recording transfer of ownership (ss. 4, 8).

Provision is made for owner liability for damages caused by the vehicle (s. 12) and owner responsibility where there are contraventions of the law (s. 14).

Helmets are required to be worn (s. 19).

Bill 61

1983

An Act to regulate Off-Road Vehicles

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation


- (a) “conservation officer” means a conservation officer appointed under the *Game and Fish Act* and a park warden appointed under the *Provincial Parks Act*; R.S.O. 1980, cc. 183, 401
- (b) “highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, designed and intended for, or used by, the general public for the passage of vehicles;
- (c) “holder”, when used in relation to a permit, means the person in whose name the plate portion of a permit is issued;
- (d) “Minister” means the Minister of Transportation and Communications;
- (e) “Ministry” means the Ministry of Transportation and Communications;
- (f) “occupier” includes,
- (i) a person who is in physical possession of the land, or
 - (ii) a person who has responsibility for and control over the condition of land or the activities there carried on, or control over persons allowed to enter the land,

notwithstanding that there is more than one occupier of the same land;



(g) “off-road vehicle” means a vehicle propelled or driven otherwise than by muscular power or wind and designed to travel,

(i) on not more than three wheels, or

(ii) on more than three wheels and being of a prescribed class of vehicle; 

(h) “peace officer” includes a police officer, constable, municipal law enforcement officer, conservation officer or other person employed for the preservation and maintenance of the public peace or any officer appointed for enforcing or carrying out the provisions of this Act;

(i) “permit”, unless otherwise indicated, means a permit issued under section 4 consisting of a vehicle portion and a plate portion;

(j) “prescribed” means prescribed by the regulations;

(k) “Registrar” means the Registrar of Motor Vehicles appointed under the *Highway Traffic Act*;

(l) “regulations” means the regulations made under this Act.

R.S.O. 1980,
c. 198

Application

2.—(1) This Act does not apply in respect of off-road vehicles being operated on a highway.



Exception


(2) Notwithstanding subsection (1), and section 7, subsection 18 (1) and subsections 44 (1), (3) to (26) and (28) to (32) of the *Highway Traffic Act*, a holder of a driver's licence issued under section 18 of the *Highway Traffic Act* who is not contravening any provision of this Act may drive an off-road vehicle,

(a) directly across a highway, if the vehicle is designed to travel on not more than two wheels; or

(b) on a highway, if the vehicle is designed to travel on more than two wheels, the driver is a farmer using the vehicle for agricultural purposes and the vehicle or a vehicle drawn by it bears a slow moving vehicle sign.

Application


(3) Subsection (2) does not apply to a motorcycle with a side car, a farm tractor, self-propelled implement of husbandry or a road-building machine as defined in the *Highway Traffic Act* or

to off-road vehicles that are exempted from section 3 of this Act by regulation. 

3.—(1) No person shall drive an off-road vehicle except under the authority of a permit for the vehicle and with the number plate showing the number of the permit displayed on the vehicle in the manner prescribed. Permit required

(2) Every driver of an off-road vehicle shall carry the permit for it or a true copy thereof and shall surrender the permit or copy for inspection upon demand of a peace officer. Permit to be carried

(3) Subsection (2) does not apply to a driver of an off-road vehicle on land where the owner of the vehicle is the occupier of the land. Exception

4. No person under the age of twelve years shall drive an off-road vehicle except on land of which the owner of the vehicle is the occupier. Age limit for driving 

5.—(1) Subject to subsection (2), every person who, Issuance of permits

(a) is the owner of an off-road vehicle;

(b) is at least sixteen years of age; and

(c) pays the prescribed fee,

is entitled to be issued a numbered permit from the Ministry for the vehicle in accordance with the regulations.

(2) Prior to the issuance of a permit under this section, the person to whom the application is made may require production of such documentation as is considered necessary to establish the requirements set out in subsection (1). Permit documentation

(3) The Ministry may authorize number plates in an applicant's possession for use on an off-road vehicle. Use of plates

(4) The Minister may authorize any person to issue permits for off-road vehicles and may define the duties and powers of such person. Local issuance of permits

(5) Where a salary is not provided for a person authorized under subsection (4), the Minister may set a fee to be retained by the person for each permit issued. Fee for issuing permits

(6) The Ministry shall maintain, Records

- (a) a numerical index record of all permits issued and in force under this section; and
- (b) an alphabetical index record of the names and addresses of all persons to whom permits that are in force have been issued.

Regulations
re permits
and permit
numbers

(7) The Lieutenant Governor in Council may make regulations respecting any matter ancillary to the provisions of this section with respect to permits and in particular,

- (a) prescribing forms for the purposes of this section and requiring their use;
- (b) respecting the issuance of permits and number plates;
- (c) governing the manner of displaying number plates on off-road vehicles;
- (d) prescribing fees for the issuance and replacement of permits and number plates and for any additional administrative proceedings arising therefrom;
- (e) respecting permits and number plates for use, on a temporary basis, on off-road vehicles in the possession of,
 - (i) manufacturers of off-road vehicles,
 - (ii) dealers in off-road vehicles, or
 - (iii) persons in the business of repairing, customizing, modifying or transporting off-road vehicles,

where the vehicles are not kept for private use or for hire and prescribing conditions under which such off-road vehicles may be operated;

- (f) prescribing requirements for the purposes of section 8.

False
statement

6.—(1) Every person who knowingly makes a false statement in an application, declaration, affidavit or paper writing required by this Act, the regulations or the Ministry, is guilty of an offence and on conviction, in addition to any other penalty to which he may be liable, is liable to a fine of not less than \$50 and not more than \$200 or to imprisonment for a term of not more than thirty days, or to both.

(2) Where an owner changes his address as stated in an application for a permit or in a previous notice sent or filed under this subsection, he shall, within six days, send by registered mail to or file with the Ministry notice of his new address.

Change of
address

7. Section 3 does not apply if the owner of the vehicle holds a permit for the vehicle issued under section 8 of the *Highway Traffic Act*, the number plate issued thereunder is displayed on the vehicle in accordance with the regulations under that Act and the permit is of such a nature that, were the vehicle driven on a highway, there would be no contravention of the *Highway Traffic Act* with respect to the permit and number plate.

Application
where permit
under
R.S.O. 1980,
c. 198

8.—(1) Where the holder of a permit ceases to be the owner of the off-road vehicle referred to in the permit, he shall,

Where
transfer of
ownership

- (a) remove his number plate from the vehicle;
- (b) on the delivery of the vehicle to the new owner, complete the transfer section of the vehicle portion of the permit including the date of the delivery and give that portion of the permit to the new owner; and
- (c) retain the plate portion of the permit.

(2) Every person shall, within six days after becoming the owner of an off-road vehicle for which a permit has been issued, apply to the Ministry, on the form provided therefor, for a new permit for the vehicle.

Re-issue
of permit

(3) Notwithstanding subsections 3 (1) and 9 (1), a person, to whom a number plate has been issued under section 5 for a vehicle he no longer owns, may affix the number plate to a similar vehicle that he owns where he does so in accordance with the prescribed requirements.

Temporary
use of
plate

(4) Notwithstanding section 3, a person may drive an off-road vehicle during the six day period referred to in subsection (2) where he complies with the prescribed requirements.

Idem

9.—(1) Every person who,

Violations
as to
number

- (a) defaces or alters any number plate furnished by the Ministry;
- (b) uses or permits the use of a defaced or altered number plate;

- (c) without the authority of the permit holder removes a number plate from an off-road vehicle; or
- (d) uses or permits the use of any number plate upon an off-road vehicle other than a number plate authorized for use on that off-road vehicle,

is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$500 or to imprisonment for not more than thirty days, or to both.

Property
of the
Crown

(2) Every number plate furnished by the Ministry under this Act is the property of the Crown and shall be returned to the Ministry when required by the Ministry.

No other
number to be
exposed and
number to be
kept clean

10.—(1) The driver of an off-road vehicle shall ensure that,

- (a) no number other than that upon the number plate furnished under this Act shall be exposed on any part of an off-road vehicle in such a position or manner as to confuse the identity of the number plate; and
- (b) the number is kept free from dirt and obstruction and is so affixed that the numbers thereon are plainly visible at all times and the view thereof is not obscured by any part of the vehicle or any attachments thereto, or by the load carried.

Penalty

(2) Every person who contravenes clause (1) (b) is guilty of an offence and on conviction is liable to a fine of not less than \$5 and not more than \$10.

Improper
number

11. Where a peace officer has reason to believe that a number plate attached to an off-road vehicle or the permit carried by the driver,

- (a) was not furnished under this Act for the vehicle; or
- (b) was obtained by false pretences; or
- (c) has been defaced or altered,

the peace officer may take possession of the number plate or permit and retain it until the facts as to the use or furnishing of the number plate or permit for the off-road vehicle have been determined.

Liability
of owner

12.—(1) Where the driver of an off-road vehicle, who is not the owner thereof, is liable for damages for injury or dam-

age arising out of the operation by him of the vehicle with the consent of the owner, the owner is jointly and severally liable.

(2) Where an off-road vehicle is leased, the consent of the lessee of the vehicle to the operation or possession thereof by another person shall, for the purposes of subsection (1), be deemed to be the consent of the owner of the vehicle. Idem

13.—(1) Subject to subsections (2) and (3), no action shall be brought against a person for the recovery of damages occasioned by an off-road vehicle after the expiration of two years from the time when the injury or damage was sustained. Time limit for instituting civil actions

(2) Where death is caused, the action may be brought within the time limited by the *Family Law Reform Act*. Limitation in case of death
R.S.O. 1980, c. 152

(3) This section does not apply to bar a counterclaim or third party proceedings. Counterclaim or third party proceedings not barred

14.—(1) The owner of an off-road vehicle may be charged with and convicted of an offence under this Act, the regulations or any municipal by-law regulating, governing or prohibiting the operation of off-road vehicles, for which the driver of the off-road vehicle is subject to be charged and on conviction, the owner is liable to the penalty prescribed for the offence. Owner may be convicted

(2) Subsection (1) does not apply where, at the time of the offence, the vehicle was in the possession of a person other than the owner without the owner's consent. Exception

(3) Subsection (1) does not apply to an offence under subsections 15 (1) to (4). Idem

(4) For the purposes of this Act, where a number plate issued under section 5 of this Act or section 7 of the *Highway Traffic Act* is exposed on an off-road vehicle, the holder of the permit corresponding thereto shall be deemed to be the owner of that vehicle unless the number plate was exposed thereon without his consent, the burden of proof of which is on the permit holder. Permit holder deemed owner
R.S.O. 1980, c. 198

15.—(1) No person shall drive an off-road vehicle unless it is insured under a motor vehicle liability policy in accordance with the *Insurance Act*. Insurance
R.S.O. 1980, c. 218

Idem

(2) No owner of an off-road vehicle shall permit it to be driven unless it is insured under a motor vehicle liability policy in accordance with the *Insurance Act*.

R.S.O. 1980,
c. 218

Production
of evidence
of insurance

(3) Every driver of an off-road vehicle who is not owner thereof shall, upon the request of a peace officer, surrender for inspection evidence that the vehicle is insured under a motor vehicle liability policy in accordance with the *Insurance Act*.

Idem

(4) Every owner of an off-road vehicle that is driven on land other than land that he occupies shall, upon request of a peace officer, surrender, for inspection, within seventy-two hours after the request is made, evidence that the vehicle was insured under a motor vehicle liability policy in accordance with the *Insurance Act* at the time it was driven.

Time limit

(5) Subsection (4) does not apply unless the request is made within three months after the time the vehicle was driven.

Driver
offences

(6) Every person, other than the owner of the vehicle involved, who,

- (a) contravenes subsection (1);
- (b) fails to surrender evidence under subsection (3) when requested to do so; or
- (c) produces false evidence when required to surrender evidence under subsection (3),

is guilty of an offence and on conviction is liable to a fine of not less than \$10 and not more than \$100.

Owner
offences

(7) Every person who, being the owner of an off-road vehicle, drives it in contravention of subsection (1) or permits it to be driven in contravention of subsection (2) is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500.

Owner
offence
for failure
to produce
evidence or
producing
false
evidence

(8) Every person who contravenes subsection (4) or who produces false evidence when required to surrender evidence under subsection (4) is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500.

Exemption

(9) Subsections (1), (2) and (3) do not apply where the vehicle is driven on land occupied by the owner of the vehicle.

16. Every person who drives an off-road vehicle without due care and attention or without reasonable consideration for other persons is guilty of an offence. Careless driving

17.—(1) A peace officer may stop any person driving an off-road vehicle. Officer may stop driver

(2) The owner or occupier of land may stop any person driving an off-road vehicle on his land. Land owner may stop driver

(3) Every person who has been signalled to stop by a person authorized to do so under subsection (1) or (2) shall stop forthwith. Duty to stop

(4) Every person stopped under this section or subsection 18 (1) shall, when so requested, identify himself by giving his name and address to the person who stopped him. Driver to identify himself

(5) A peace officer who, on reasonable and probable grounds, believes that a contravention of subsection (3) or (4) has been committed, may arrest without warrant any person whom he, on reasonable and probable grounds, believes has committed the contravention. Constable may arrest without warrant

18.—(1) Every driver of an off-road vehicle shall stop his vehicle when approached by another vehicle with a flashing red light. Duty to stop

(2) No person, except a peace officer, shall operate an off-road vehicle that is equipped with a lamp that produces flashes of red light. Red light on vehicle

(3) Subsection (2) does not apply to prohibit the use of vehicular hazard warning lamps commonly known as four way flashers. Hazard warning lamps permitted

19.—(1) No person shall drive an off-road vehicle or ride on an off-road vehicle or on a conveyance towed by an off-road vehicle unless he is wearing a helmet that complies with the regulations, securely fastened under his chin with a chin strap. Helmet

(2) This section does not apply to a person driving or riding on an off-road vehicle or on a conveyance towed by an off-road vehicle where the owner of the off-road vehicle is the occupier of the land. Idem

Risks
willingly
assumed for
purposes of
R.S.O. 1980,
c. 322

20. Every person who enters premises on an off-road vehicle or while being towed by an off-road vehicle shall be deemed, for the purpose of subsection 4 (1) of the *Occupiers' Liability Act*, to have willingly assumed all risks where,

- (a) no fee is paid for the entry or activity of the person, other than a benefit or payment received from a government or government agency or a non-profit recreation club or association; and
- (b) the person is not being provided with living accommodation by the occupier.

Offences
and fines

21. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction, where a fine for the contravention is not otherwise provided for in this Act, is liable to a fine not exceeding \$300.

Evidence

22.—(1) A copy of any paper filed in the Ministry under this Act or the regulations, or any statement containing information from the records required to be kept under this Act or the regulations, purporting to be certified by the Registrar under the seal of the Ministry, shall be received in evidence in all courts without proof of the seal or signature and is *prima facie* evidence of the facts contained therein.

Signature
of
Registrar

(2) An engraved, lithographed, printed or otherwise mechanically reproduced facsimile signature of the Registrar is sufficient authentication of any such copy or statement.

Regulations

23. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the standards and specifications of helmets referred to in section 19 and providing for and requiring the identification and marking of such helmets;
- (b) designating classes of off-road vehicles and exempting any class from all or any of the provisions of this Act or the regulations and prescribing conditions for any such exemptions;
- (c) designating areas within Ontario to which any provisions of this Act and the regulations do not apply;
- (d) providing for the payment of fees for copies of or access to any paper filed in the Ministry under this Act or the regulations, or any statement containing

information from the records of the Ministry and prescribing the amount of such fees;

- ➡ (e) classifying vehicles designed to travel on more than three wheels and designating any classes as off-road vehicles. ⬆

24. Any regulation may adopt by reference in whole or in part, with such changes as the Minister considers necessary, any code, and may require compliance with any code that is so adopted. Codes

25.—(1) This Act, except sections 3 to 11 and sections 15 to 20, comes into force on the day it receives Royal Assent. Commence-
ment

(2) Sections 4 to 11 and sections 16 to 20 come into force on the 1st day of February, 1984. Idem

➡ (3) Section 3 comes into force on the 1st day of June, 1984. Idem

(4) Section 15 comes into force on the 1st day of August, 1984. Idem
⬆

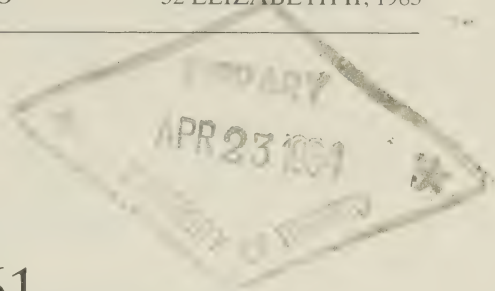
26. The short title of this Act is the *Off-Road Vehicles Act, 1983*. Short title

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Bill 61

3RD SESSION, 32ND LEGISLATURE, ONTARIO

32 ELIZABETH II, 1983



Bill 61

(Chapter 53
Statutes of Ontario, 1983)

An Act to regulate Off-Road Vehicles

The Hon. J.W. Snow

Minister of Transportation and Communications

<i>1st Reading</i>	June 7th, 1983
<i>2nd Reading</i>	October 18th, 1983
<i>3rd Reading</i>	November 8th, 1983
<i>Royal Assent</i>	November 9th, 1983

Bill 61

1983

An Act to regulate Off-Road Vehicles

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “conservation officer” means a conservation officer appointed under the *Game and Fish Act* and a park warden appointed under the *Provincial Parks Act*; R.S.O. 1980,
cc. 183, 401
- (b) “highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, designed and intended for, or used by, the general public for the passage of vehicles;
- (c) “holder”, when used in relation to a permit, means the person in whose name the plate portion of a permit is issued;
- (d) “Minister” means the Minister of Transportation and Communications;
- (e) “Ministry” means the Ministry of Transportation and Communications;
- (f) “occupier” includes,
 - (i) a person who is in physical possession of the land, or
 - (ii) a person who has responsibility for and control over the condition of land or the activities there carried on, or control over persons allowed to enter the land,

notwithstanding that there is more than one occupier of the same land;

- (g) “off-road vehicle” means a vehicle propelled or driven otherwise than by muscular power or wind and designed to travel,
 - (i) on not more than three wheels, or
 - (ii) on more than three wheels and being of a prescribed class of vehicle;
- (h) “peace officer” includes a police officer, constable, municipal law enforcement officer, conservation officer or other person employed for the preservation and maintenance of the public peace or any officer appointed for enforcing or carrying out the provisions of this Act;
- (i) “permit”, unless otherwise indicated, means a permit issued under section 4 consisting of a vehicle portion and a plate portion;
- (j) “prescribed” means prescribed by the regulations;
- (k) “Registrar” means the Registrar of Motor Vehicles appointed under the *Highway Traffic Act*;
- (l) “regulations” means the regulations made under this Act.

R.S.O. 1980,
c. 198

Application

2.—(1) This Act does not apply in respect of off-road vehicles being operated on a highway.

Exception

(2) Notwithstanding subsection (1), and section 7, subsection 18 (1) and subsections 44 (1), (3) to (26) and (28) to (32) of the *Highway Traffic Act*, a holder of a driver's licence issued under section 18 of the *Highway Traffic Act* who is not contravening any provision of this Act may drive an off-road vehicle,

- (a) directly across a highway; or
- (b) on a highway, if the vehicle is designed to travel on more than two wheels, the driver is a farmer using the vehicle for agricultural purposes and the vehicle or a vehicle drawn by it bears a slow moving vehicle sign.

Application

(3) Subsection (2) does not apply to a motorcycle with a side car, a farm tractor, self-propelled implement of husbandry or a road-building machine as defined in the *Highway Traffic Act* or to off-road vehicles that are exempted from section 3 of this Act by regulation.

3.—(1) No person shall drive an off-road vehicle except under the authority of a permit for the vehicle and with the number plate showing the number of the permit displayed on the vehicle in the manner prescribed. Permit required

(2) Every driver of an off-road vehicle shall carry the permit for it or a true copy thereof and shall surrender the permit or copy for inspection upon demand of a peace officer. Permit to be carried

(3) Subsection (2) does not apply to a driver of an off-road vehicle on land where the owner of the vehicle is the occupier of the land. Exception

4. No person under the age of twelve years shall drive an off-road vehicle except on land of which the owner of the vehicle is the occupier. Age limit for driving

5.—(1) Subject to subsection (2), every person who, Issuance of permits

(a) is the owner of an off-road vehicle;

(b) is at least sixteen years of age; and

(c) pays the prescribed fee,

is entitled to be issued a numbered permit from the Ministry for the vehicle in accordance with the regulations.

(2) Prior to the issuance of a permit under this section, the person to whom the application is made may require production of such documentation as is considered necessary to establish the requirements set out in subsection (1). Permit documentation

(3) The Ministry may authorize number plates in an applicant's possession for use on an off-road vehicle. Use of plates

(4) The Minister may authorize any person to issue permits for off-road vehicles and may define the duties and powers of such person. Local issuance of permits

(5) Where a salary is not provided for a person authorized under subsection (4), the Minister may set a fee to be retained by the person for each permit issued. Fee for issuing permits

(6) The Ministry shall maintain, Records

(a) a numerical index record of all permits issued and in force under this section; and

- (b) an alphabetical index record of the names and addresses of all persons to whom permits that are in force have been issued.

Regulations
re permits
and permit
numbers

(7) The Lieutenant Governor in Council may make regulations respecting any matter ancillary to the provisions of this section with respect to permits and in particular,

- (a) prescribing forms for the purposes of this section and requiring their use;
- (b) respecting the issuance of permits and number plates;
- (c) governing the manner of displaying number plates on off-road vehicles;
- (d) prescribing fees for the issuance and replacement of permits and number plates and for any additional administrative proceedings arising therefrom;
- (e) respecting permits and number plates for use, on a temporary basis, on off-road vehicles in the possession of,
 - (i) manufacturers of off-road vehicles,
 - (ii) dealers in off-road vehicles, or
 - (iii) persons in the business of repairing, customizing, modifying or transporting off-road vehicles,

where the vehicles are not kept for private use or for hire and prescribing conditions under which such off-road vehicles may be operated;

- (f) prescribing requirements for the purposes of section 8.

False
statement

6.—(1) Every person who knowingly makes a false statement in an application, declaration, affidavit or paper writing required by this Act, the regulations or the Ministry, is guilty of an offence and on conviction, in addition to any other penalty to which he may be liable, is liable to a fine of not less than \$50 and not more than \$200 or to imprisonment for a term of not more than thirty days, or to both.

Change of
address

(2) Where an owner changes his address as stated in an application for a permit or in a previous notice sent or filed

under this subsection, he shall, within six days, send by registered mail to or file with the Ministry notice of his new address.

7. Section 3 does not apply if the owner of the vehicle holds a permit for the vehicle issued under section 8 of the *Highway Traffic Act*, the number plate issued thereunder is displayed on the vehicle in accordance with the regulations under that Act and the permit is of such a nature that, were the vehicle driven on a highway, there would be no contravention of the *Highway Traffic Act* with respect to the permit and number plate.

Application
where permit
under
R.S.O. 1980,
c. 198

8.—(1) Where the holder of a permit ceases to be the owner of the off-road vehicle referred to in the permit, he shall,

Where
transfer of
ownership

- (a) remove his number plate from the vehicle;
- (b) on the delivery of the vehicle to the new owner, complete the transfer section of the vehicle portion of the permit including the date of the delivery and give that portion of the permit to the new owner; and
- (c) retain the plate portion of the permit.

(2) Every person shall, within six days after becoming the owner of an off-road vehicle for which a permit has been issued, apply to the Ministry, on the form provided therefor, for a new permit for the vehicle.

Re-issue
of permit

(3) Notwithstanding subsections 3 (1) and 9 (1), a person, to whom a number plate has been issued under section 5 for a vehicle he no longer owns, may affix the number plate to a similar vehicle that he owns where he does so in accordance with the prescribed requirements.

Temporary
use of
plate

(4) Notwithstanding section 3, a person may drive an off-road vehicle during the six day period referred to in subsection (2) where he complies with the prescribed requirements.

Idem

9.—(1) Every person who,

Violations
as to
number

- (a) defaces or alters any number plate furnished by the Ministry;
- (b) uses or permits the use of a defaced or altered number plate;

- (c) without the authority of the permit holder removes a number plate from an off-road vehicle; or
- (d) uses or permits the use of any number plate upon an off-road vehicle other than a number plate authorized for use on that off-road vehicle,

is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$500 or to imprisonment for not more than thirty days, or to both.

Property
of the
Crown

(2) Every number plate furnished by the Ministry under this Act is the property of the Crown and shall be returned to the Ministry when required by the Ministry.

No other
number to be
exposed and
number to be
kept clean

10.—(1) The driver of an off-road vehicle shall ensure that,

- (a) no number other than that upon the number plate furnished under this Act shall be exposed on any part of an off-road vehicle in such a position or manner as to confuse the identity of the number plate; and
- (b) the number is kept free from dirt and obstruction and is so affixed that the numbers thereon are plainly visible at all times and the view thereof is not obscured by any part of the vehicle or any attachments thereto, or by the load carried.

Penalty

(2) Every person who contravenes clause (1) (b) is guilty of an offence and on conviction is liable to a fine of not less than \$5 and not more than \$10.

Improper
number

11. Where a peace officer has reason to believe that a number plate attached to an off-road vehicle or the permit carried by the driver,

- (a) was not furnished under this Act for the vehicle; or
- (b) was obtained by false pretences; or
- (c) has been defaced or altered,

the peace officer may take possession of the number plate or permit and retain it until the facts as to the use or furnishing of the number plate or permit for the off-road vehicle have been determined.

Liability
of owner

12.—(1) Where the driver of an off-road vehicle, who is not the owner thereof, is liable for damages for injury or dam-

age arising out of the operation by him of the vehicle with the consent of the owner, the owner is jointly and severally liable.

(2) Where an off-road vehicle is leased, the consent of the lessee of the vehicle to the operation or possession thereof by another person shall, for the purposes of subsection (1), be deemed to be the consent of the owner of the vehicle. Idem

13.—(1) Subject to subsections (2) and (3), no action shall be brought against a person for the recovery of damages occasioned by an off-road vehicle after the expiration of two years from the time when the injury or damage was sustained. Time
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(2) Where death is caused, the action may be brought within the time limited by the *Family Law Reform Act*. Limitation
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R.S.O. 1980,
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not barred

14.—(1) The owner of an off-road vehicle may be charged with and convicted of an offence under this Act, the regulations or any municipal by-law regulating, governing or prohibiting the operation of off-road vehicles, for which the driver of the off-road vehicle is subject to be charged and on conviction, the owner is liable to the penalty prescribed for the offence. Owner
may be
convicted

(2) Subsection (1) does not apply where, at the time of the offence, the vehicle was in the possession of a person other than the owner without the owner's consent. Exception

(3) Subsection (1) does not apply to an offence under subsections 15 (1) to (4). Idem

(4) For the purposes of this Act, where a number plate issued under section 5 of this Act or section 7 of the *Highway Traffic Act* is exposed on an off-road vehicle, the holder of the permit corresponding thereto shall be deemed to be the owner of that vehicle unless the number plate was exposed thereon without his consent, the burden of proof of which is on the permit holder. Permit
holder
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R.S.O. 1980,
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15.—(1) No person shall drive an off-road vehicle unless it is insured under a motor vehicle liability policy in accordance with the *Insurance Act*. Insurance

R.S.O. 1980,
c. 218

Idem

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R.S.O. 1980,
c. 218

Production
of evidence
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(3) Every driver of an off-road vehicle who is not owner thereof shall, upon the request of a peace officer, surrender for inspection evidence that the vehicle is insured under a motor vehicle liability policy in accordance with the *Insurance Act*.

Idem

(4) Every owner of an off-road vehicle that is driven on land other than land that he occupies shall, upon request of a peace officer, surrender, for inspection, within seventy-two hours after the request is made, evidence that the vehicle was insured under a motor vehicle liability policy in accordance with the *Insurance Act* at the time it was driven.

Time limit

(5) Subsection (4) does not apply unless the request is made within three months after the time the vehicle was driven.

Driver
offences

(6) Every person, other than the owner of the vehicle involved, who,

- (a) contravenes subsection (1);
- (b) fails to surrender evidence under subsection (3) when requested to do so; or
- (c) produces false evidence when required to surrender evidence under subsection (3),

is guilty of an offence and on conviction is liable to a fine of not less than \$10 and not more than \$100.

Owner
offences

(7) Every person who, being the owner of an off-road vehicle, drives it in contravention of subsection (1) or permits it to be driven in contravention of subsection (2) is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500.

Owner
offence
for failure
to produce
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(8) Every person who contravenes subsection (4) or who produces false evidence when required to surrender evidence under subsection (4) is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500.

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(9) Subsections (1), (2) and (3) do not apply where the vehicle is driven on land occupied by the owner of the vehicle.

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(2) The owner or occupier of land may stop any person driving an off-road vehicle on his land. Land owner may stop driver

(3) Every person who has been signalled to stop by a person authorized to do so under subsection (1) or (2) shall stop forthwith. Duty to stop

(4) Every person stopped under this section or subsection 18 (1) shall, when so requested, identify himself by giving his name and address to the person who stopped him. Driver to identify himself

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18.—(1) Every driver of an off-road vehicle shall stop his vehicle when approached by another vehicle with a flashing red light. Duty to stop

(2) No person, except a peace officer, shall operate an off-road vehicle that is equipped with a lamp that produces flashes of red light. Red light on vehicle

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Risks
willingly
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purposes of
R.S.O. 1980,
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- (a) prescribing the standards and specifications of helmets referred to in section 19 and providing for and requiring the identification and marking of such helmets;
- (b) designating classes of off-road vehicles and exempting any class from all or any of the provisions of this Act or the regulations and prescribing conditions for any such exemptions;
- (c) designating areas within Ontario to which any provisions of this Act and the regulations do not apply;
- (d) providing for the payment of fees for copies of or access to any paper filed in the Ministry under this Act or the regulations, or any statement containing

information from the records of the Ministry and prescribing the amount of such fees;

- (e) classifying vehicles designed to travel on more than three wheels and designating any classes as off-road vehicles.

24. Any regulation may adopt by reference in whole or in part, with such changes as the Minister considers necessary, any code, and may require compliance with any code that is so adopted. Codes

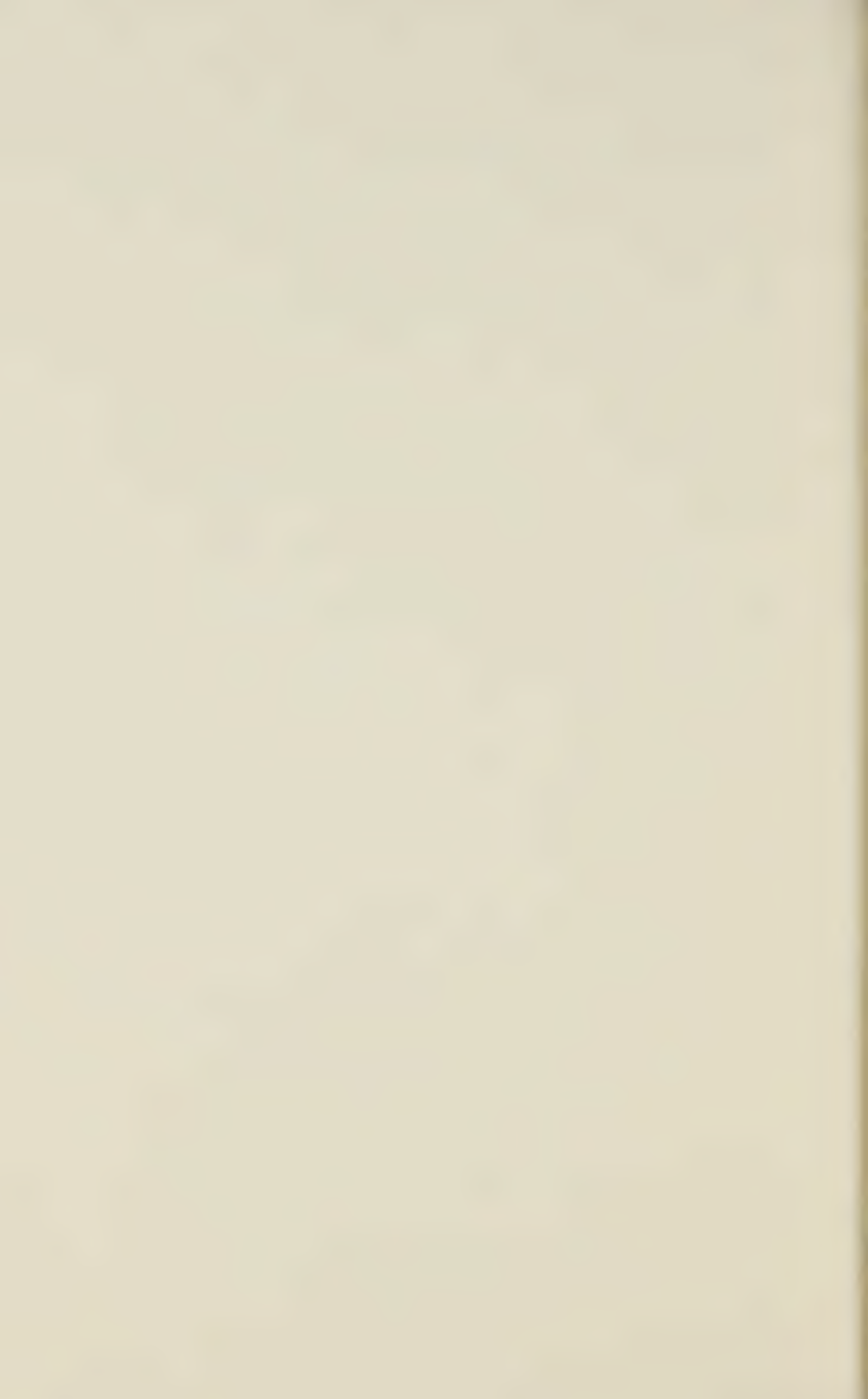
25.—(1) This Act, except sections 3 to 11 and sections 15 to 20, comes into force on the day it receives Royal Assent. Commence-
ment

(2) Sections 4 to 11 and sections 16 to 20 come into force on the 1st day of February, 1984. Idem

(3) Section 3 comes into force on the 1st day of June, 1984. Idem

(4) Section 15 comes into force on the 1st day of August, 1984. Item

26. The short title of this Act is the *Off-Road Vehicles Act, 1983*. Short title





Bill 62

An Act to amend the Labour Relations Act

The Hon. R. H. Ramsay
Minister of Labour

1st Reading June 7th, 1983
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would prohibit any person, employer or employers' organization or person acting on behalf of an employer or employers' organization from engaging in strike-related misconduct or hiring or acting as professional strike breakers.

Bill 62

1983

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

s. 71a,
enacted

71a.—(1) No person, employer, employers' organization or person acting on behalf of an employer or employers' organization shall engage in strike-related misconduct or retain the services of a professional strike breaker and no person shall act as a professional strike breaker.

Strike-
breaking
misconduct,
etc.,
prohibited

(2) For the purposes of subsection (1),

Interpre-
tation

(a) "professional strike breaker" means a person who is not involved in a dispute whose primary object, in the Board's opinion, is to interfere with, obstruct, prevent, restrain or disrupt the exercise of any right under this Act in anticipation of, or during, a lawful strike or lock-out;

(b) "strike-related misconduct" means a course of conduct of incitement, intimidation, coercion, undue influence, provocation, infiltration, surveillance or any other like course of conduct intended to interfere with, obstruct, prevent, restrain or disrupt the exercise of any right under this Act in anticipation of, or during, a lawful strike or lock-out.

(3) Nothing in this section shall be deemed to restrict or limit any right or prohibition contained in any other provision of this Act.

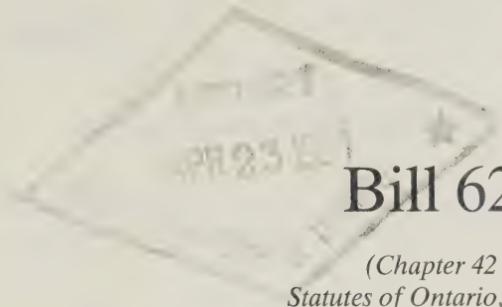
Other
rights not
affected

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

Short title

3. The short title of this Act is the *Labour Relations Amendment Act, 1983*.



Bill 62

*(Chapter 42
Statutes of Ontario, 1983)*

An Act to amend the Labour Relations Act

The Hon. R. H. Ramsay
Minister of Labour

<i>1st Reading</i>	June 7th, 1983
<i>2nd Reading</i>	June 21st, 1983
<i>3rd Reading</i>	June 21st, 1983
<i>Royal Assent</i>	June 21st, 1983

THE UNIVERSITY OF CHICAGO

Bill 62

1983

An Act to amend the Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Labour Relations Act*, being chapter 228 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

s. 71a,
enacted

71a.—(1) No person, employer, employers' organization or person acting on behalf of an employer or employers' organization shall engage in strike-related misconduct or retain the services of a professional strike breaker and no person shall act as a professional strike breaker.

Strike-
breaking
misconduct,
etc.,
prohibited

(2) For the purposes of subsection (1),

Interpre-
tation

(a) "professional strike breaker" means a person who is not involved in a dispute whose primary object, in the Board's opinion, is to interfere with, obstruct, prevent, restrain or disrupt the exercise of any right under this Act in anticipation of, or during, a lawful strike or lock-out;

(b) "strike-related misconduct" means a course of conduct of incitement, intimidation, coercion, undue influence, provocation, infiltration, surveillance or any other like course of conduct intended to interfere with, obstruct, prevent, restrain or disrupt the exercise of any right under this Act in anticipation of, or during, a lawful strike or lock-out.

(3) Nothing in this section shall be deemed to restrict or limit any right or prohibition contained in any other provision of this Act.

Other
rights not
affected

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

Short title

3. The short title of this Act is the *Labour Relations Amendment Act, 1983*.

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Bill 63

**An Act to require that Consumer Contracts be
Readable and Understandable**

Mr. Mancini

1st Reading June 7th, 1983

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill requires that consumer contracts be readable and understandable by the ordinary consumer. A consumer contract that contravenes the detailed requirements set out in subsection 2 (1) may be rescinded by the consumer, who is also entitled to recover any damages suffered as a result of the contravention and may be entitled to punitive damages.

Bill 63**1983****An Act to require that Consumer Contracts be
Readable and Understandable**

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts as
follows:

1. In this Act,Interpre-
tation

- (a) “consumer” means an individual but does not include an individual, partnership or association of individuals acting in the course of carrying on business;
- (b) “consumer contract” means a contract between a consumer and a person who is not a consumer for the purchase or rental by the consumer of,
 - (i) real property to be used for residential purposes, or
 - (ii) goods and services;
- (c) “goods” means chattels personal or any right or interest therein other than things in action and money, including chattels that become fixtures but not including securities as defined in the *Securities Act*; and
- (d) “services” means services,
 - (i) provided in respect of goods or of real property, or
 - (ii) provided for social, recreational or self-improvement purposes, or
 - (iii) that are in their nature instructional or educational,

R.S.O. 1980,
c. 466

and includes the provision of insurance.

Requirements
for consumer
contract

2.—(1) Where a consumer contract is made in writing, it shall,

- (a) be written in clear and coherent language;
- (b) contain only words that are generally understood, used in their common and everyday sense;
- (c) not contain a word that is used in a legal or technical sense inconsistent with its generally understood meaning;
- (d) be arranged in a logical sequence;
- (e) be appropriately divided and captioned;
- (f) have a table of contents, if the consumer contract exceeds 3,000 words or three pages in length;
- (g) not contain unnecessarily long or complex sentences;
- (h) not contain unnecessary cross-references;
- (i) not contain a double negative or an exception to an exception; and
- (j) not be printed in less than ten point type.

Technical
terms

(2) Despite clause (1) (b), a consumer contract may contain a technical word that is not generally understood where the technical word is required for the precise specification of a product or service.

Exceptions

(3) Subsection (1) does not apply to a consumer contract,

- (a) that is entirely drafted as a result of detailed negotiations between the parties; or
- (b) where the consumer has been represented in negotiations by a solicitor who signs the consumer contract as the consumer's solicitor.

Statutory
language

(4) Clauses (1) (b) and (c) do not apply to a word that is defined or whose use is prescribed under a statute or regulation.

Rescission

3.—(1) A consumer contract that contravenes subsection 2 (1) may be rescinded by the consumer and the consumer is

entitled to recover any damages suffered as a result of the contravention.

(2) Where rescission under subsection (1) is not possible because restitution is no longer possible, or because rescission would deprive a third party of a right in the subject-matter of the agreement that the third party has acquired in good faith and for value, the consumer is entitled to recover any damages suffered as a result of the contravention.

Where
rescission
not possible

(3) Where a consumer is entitled to a remedy conferred by subsection (1) or (2), the court may also award the consumer exemplary or punitive damages.

Exemplary
damages

(4) A remedy conferred by subsection (1), (2) or (3) may be claimed by the giving of notice of the claim by the consumer in writing to each other party to the consumer contract within six months after the consumer contract is entered into.

Time for
rescission

(5) A notice under subsection (4) may be delivered personally or sent by registered mail addressed to the person to whom delivery is required to be made, and delivery by registered mail shall be deemed to have been made at the time of mailing.

Delivery
of notice

4. This Act applies despite any agreement or waiver to the contrary.

No
contracting
out

5. This Act binds the Crown.

Crown
bound

6. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

7. The short title of this Act is the *Plain Language Act*, 1983.

Short title



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